THE PRIVILEDGES OF THE BARONAGE of ENGLAND When they sit in Parliament.

With the Special Rights of *Barons* that have Place in Parliament, in their Private Capacities.

Collected out of Parliament Rolls, Crown Rolls, the Proceedings of the Courts at *Westminster*, the Arch-bishops Register, the Delegates Year-books, the Common Law, Statutes, and other good Authorities.

With the Articles of Impeachment against *Michael de la Pool*, Lord Chancellor of *ENGLAND*.

By *JOHN SELDEN* Esq;

Quo communius eo magis bonum quod est justum.

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THE
INTRODUCTION

By way of Table or Index to the Chapters following in this *TREATISE.*

PRiviledges are ſpecial Rights belonging to the *Baronage* of *England.* In which name are comprehended all thoſe, who as *Magnati & Proceres Regni* by common right are ſummoned to every *Parliament*, wherein alſo they have Place and Voice, as incident to their Dignities, and what things do concern them either as they are one Eſtate together in the Houſe of Lords, or as every one of them is privately a ſingle *Baron.*

For Priviledges of the first kind.

CHAP. TEſtimonies are hereby collected, touching,

1. Their Proxies and making of Proxies. 7
2. Their Proceedings in Suits, as well for followers as for themſelves, during the Parliament. 12
3. That none of them be ſubject to be queſtioned before the Houſe of Commons only. 14
4. Their Juriſdiction in Matters of Offences, as well Capital as not Capital, and Errors out of the Kings Bench. 15
5. Their paſſing of Bills, and giving of Judgments heretofore, without any aſſent of Spiritual Lords. 132
6. Their appointing of Judges out of themſelves for examination of the Delays of Judgments in other Courts. 138
7. Their Tenants of ancient Tenancies, being diſcharged of paying the Charges of Knights of the Shire. 140

FOR

For Priviledges of the second kind,

Of which also some are Communicated to *Baronesses*.

The Heads of the Collections are,

CHAP. 1. FIrst, *touching Oaths and Protestations upon Honour.* 142
2. *Tryal by Peers.* 152
3. Scandala magnatum. 164
4. *Process against them in English Courts, Proceedings by Bill and Answer.* 165
5. *Their number of Chaplains is qualified.* 167
6. *Their retaining of Strangers.* 168
7. *Clergy without reading.* ib.
8. *Their liberty of hunting in the Kings Forrests.* 169
9. *Amerciaments of them.* 170
10. *No Process in a civil Account to be awarded against the body of a Baron.* 172
11. *A Knight to be returned upon every Pannel where a Baron is party.* 175

12. *No day of grace againſt a Baron of* Parliament. ib.
13. *Making Deputies of Places of Truſt, committed to them without words of the ſpecial power.* 176

BEſides theſe, they have ſome Rights which are ſo commonly known, that there needs no particular mention of them; as their Intereſt in making, or repealing of *Laws*, or the like; and divers others may perhaps be found, which have not been obvious in the late ſearch made for them: but of theſe particulars before mentioned, according to the order in which they are deſcribed, ſuch ſtore as are here collected do follow.

OF

OF THE
SPECIAL RIGHTS

Which concern THEM, as they are one Eſtate in the Lords Houſe of *Parliament.*

CHAP. I.

Of Proxies of the Lords of Parliament.

UPON the Summons of the Parliament, Licence of Abſence being obtained, and the ſame Licence as uſually, it being provided that a *Proxy* be made, the *Baron* ſo licenſed may appear only by that *Proxy*, to whom his voice is ſo committed, although his Writ be *Quod perſonaliter interſit*, and ſo alſo without licenſe upon ſickneſs, or ſuch inevitable cauſe of abſence.

The firſt mention of *Proxies* that occurrs in the Memoires of our Parliaments, is of *Carlile*, under *Edward* the Firſt, where the

words are, *Quia omnes Prælati, Milites, & alii de communitate Regni, tunc plenarie non venerunt receptis quibuſdam procurationibus Prælatorum, qui venire non poterant adjornantur omnes qui ſummoniti ſunt ad* Parliamentum, *uſque ad diem Mercurii proximum ſequentem ad horam primam.* And in a Parliament held at *Weſtminſter* under *Edward* the Second; the Biſhops of *Durham*, and *Carlile* remaining upon the defence of the marches of *Scotland*, were ſeverally commanded to ſtay there; and in the Writ this clauſe was ordered to both of them. *Sed procuratorem veſtrum ſufficienter inſtructum ad dictos diem, & locum mittatis ad conſentiendum quod tunc ibidem per dictos prælatos, & proceres contigerit ordinari.* And the like Teſtimonies are afterwards under the ſame King for allowance, and and making of *Proxies*, by the name of *procuratores ſufficientes.* And in ſucceeding times the Teſtimonies of them down to this day are moſt frequent.

But two things are moſt eſpecially obſervable touching them.

1. THat although the general *Proxies* were admitted, yet when the nature of the Parliamentory buſineſs required more ſpeedy and full advice, a clauſe was inſerted into the ſummons to premoniſh the *Baron* ſummoned, that his *Proxy* ſhould not be admitted

ted unleſs he were compelled to abſent himſelf by moſt inevitable neceſſity. So was it in the Writs of Summons under *Edward* the Third to the Parliament, held for advice touching the Voyage of the King of *France* into the *Holy Land*; every *Baron* having theſe words in his Writ. *Scientes pro certo quod niſi evidens, & manifeſtus id expoſcat non intendimus procuratores ſeu excuſatores pro vobis admittere, ea vice propter arduitatem negotiorum prædictorum.* And likewiſe under *Richard* the Second, the ſummons to the Arch-Biſhop of *Canterbury*, and the reſt had theſe words. *Et hoc nullatenus omittatis ne quid abſit per veſtram abſentiam quam neceſſitate infirmitate tunc detenti fueritis quod aliqualiter illuc laborare non poteritis nullo modo excuſatum habere volumus, iſta vice expeditio ne potior noſtrorum prædictorum retardetur, ſeu aliqualiter deferatur.* And divers other Examples are for perſonal appearance, and excluding *Proxies*.

2. That the courſe of the elder time was, not that *Barons* only were made *Proxies* in the Lords Houſe at this day, but other men alſo of low condition, and this hath been very frequently in the caſe of Biſhops, and Parliamentory *Abbots* and *Priors*, who gave their Letters uſually to Parſons, Prebendaries, Canoniſts, and ſuch like. In that Parliament of *Carliſle*, under *Edward* the Firſt, the Biſhop of *Exeter* ſent to the Parliament,

Henry

Henry de Pynkney, Parſon of *Houghton*, as his *Proxy*. The Biſhop of *Bath* and *Wells* ſent *William* of *Charleton*, a Canon of his Church, and in like ſort other of the Spirituality of that time.

In the beginning of the ſeventeenth year of *Richard* the Second, the Biſhop of *Norwich* made *Richard Corqueanx*, being then Dean of the *Arches*, *Thomas Hederſet* Arch-deacon of *Sudbury*, and *John Thorpe* Parſon of *Epingham*, his *Proxies* by the Name of *Procuratores ſive nuntii*. And in the ſame time the Biſhop of *Durham's Proxies* were *John* of *Burton*, Canon of *Bewdley*, and Maſter of the Rolls, and *John* of *Wendling-borough* Canon of *London*, and other like are of the ſame time. By which alſo that of the Preamble of the Statute of *Præmunire* is underſtood, where it is ſaid, that the advice of the Lords Spiritual being preſent, and of the *procuratores* of them that were abſent, was demanded. The like under *Henry* the fourth and *Henry* the fifth are found in the Rolls. And under *Henry* the fifth the Arch-Biſhop of *York* gives the *Proxy* to the Biſhop of *Durham*; and to two other Clerks of his Province. And it is obſervable, that in the making of *Proxies* by the whole number of Biſhops in caſe of Attainders upon Appeal, their courſe was ſometime to make a Gentleman, beneath the degree of a *Baron*, the *Proxy*, as under *Richard* the

the Second, first they made their *Proxy* for assenting in the Parliament, but afterwards the Earl of *Wiltshire* had that place in the same Parliament. But this of making others then *Barons* of Parliament, *Proxies*, is carefully found in the cases of the Lords Spiritual.

One special case of it is under *Henry* the fifth, in that of *Thomas de la Ware*, who being a Clergy-man, had his *Barony* descended unto him, and is stiled in the Summons always *Magister Thomas de la Ware*, and not *Dominus*, he gave his Letters to *John Frank* and *Richard Hulm* Clerks, but the *proxy* Rolls for the Temporal Lords, are for the most part lost. The following times, especially ever since the first memory extant in the Journals of the House of Lords; which began the first of *Henry* the Eighth, have kept a constant course of making Parliamentory *Barons* onely *Proxies*. And it appeareth in those Journals, that one or two or three are joyned *conjunctim, & divisim*; and most commonly Temporal Lords have given their *Proxies* to Temporal and Spiritual men: yet not without a Temporal Lords giving his Letters of *proxy* to a Spiritual, and Temporal Lord together. And under Queen *Mary*, *Francis* Earl of *Shrewsbury* made *Anthony* Viscount *Mountague*, and *Thomas* Bishop of *Ely* his *Proxies*. And in the beginning of Queen *Mary*, *Stephen Gardiner* Bishop of *Winchester* 1. H. 8.

cheſter was joyned in Letters of *Proxy* ſometimes with a Temporal Lord. But the Lords Spiritual have ſo much miſtaken (of late) the Laws of this Kingdom, the Kings Prerogative given by the Law, and what and whence was the Original of the Honours, they themſelves had obtained: and have been ready to inlarge the Dominions of *Antichriſt*, and to induce an Arbitrary Government by their writings, and other apparent practiſes, in ſo much as now they have loſt both Priviledge and Vote in Parliament.

CHAP. II.

Priviledges in Suits as well for their fellows as themſelves during the Parliament.

IN a Bill exhibited under *Henry* the fourth, is ſhewed, that the *Lords*, *Knights*, *&c.* and their Men, and Servants, *&c.* ſhould not be arreſted or otherwiſe impriſoned by the cuſtom of the Realm, and it is prayed that if any be, the parties offending may make fine and ranſom, and give damages *&c.* Hereunto the anſwer is, there is ſufficient remedy in the caſe. In the beginning of Queen *Elizabeths* Reign, *John Broxham* being Plaintiff in an *Aſſize* in the County of *Lincoln*

Lincoln againſt the Lord *Willoughby*, it was ordained, that an Injunction ſhould go out of the *Chancery Subpœna* 500. *l.* That the Plaintiff ſhould not proceed to Tryal.

To this head may be referred that caſe of the Lord *Cromwel*, cited in the Title of *proceſs* againſt them in Engliſh Courts, and in the Journals of Queen *Elizabeth*, King *James*, and our preſent Soveraign, the Teſtimonies of theſe priviledges for the ſervants of every *Baron* of Parliament are moſt frequent. Dyer. Parl. 14 *Eliz.* Dyer Par. 39. & 43. *Eliz* & 1. Iac. &c.

Hereunto may be added that of the firſt citation out of an Eccleſiaſtical Court againſt the Earl of *Cornwal*, which was ſerved upon him at *Weſtminſter-Hall*, as he was going to the Parliament, at the *Suit* of *Bago de Clare*, and the *Prior* of Saint *Trinity* in *London*, for the Earl ſued them for the contempt, and recovered a 1000. Marks dammages. And in the ſame Parliament the Maſter of the *Temple* petitioneth, that he might diſtrain for Rent in a Houſe in *London*, which it ſeems the Biſhop of St. *Davids* held of him. *In qua non poteſt diſtringere in tempore Parliamenti.* But anſwer is, *non videtur honeſtum apud Rex concedat, quod ille de conſilio ſuo diſtringatur per Oſtia & feneſtras & prout Moris eſt.* Rot. Parl. 18. E. 1. Rot. 2. Dorſo.

CHAP.

CHAP. III.

No Peer of the House of Lords to be called to answer in the House of Commons only.

2 Martii in Dyer Parl. 15 *Hen.* 8.

Thomas Phillips complained of the Bishop of *London* upon divers Articles in the House of Commons, and at first by Order of the House, whence it was referred by reason of the slight nature of the offence, *&c.* whereupon the Bishop remembring the House of Lords of their Priviledges, *Ejus verbis auditis proceres omnes una voce dicebant quod non consentaneum fuit aliquem procerum prædictorum alicui in eo loco respondsurum.* So, where the Bishop of *Bristol* had written the Book of Union, which was conceived to be derogatary to the Honour of both Houses, yet he was complained of onely in the House of Lords, and that so he might be, and not before the Commons House alone, it was acknowledged in the message delivered from the Commons House touching him. The like is the priviledge of the Bishops complained of in the Parliament, 1641.

CHAP. IV.

The Jurisdiction of the Lords of Parliament in matters of offences, as well capital as not capital, and in Errors out of the Kings Bench.

THE power of Judicature belonging to the Lords of Parliament, is chiefly seen in their Jurisdiction upon Writs of Error, and their Judgments of Offences, as well Capital as not Capital, which they give to any publick mischief in State.

Of these Judgments of such Offences many examples are of former times in the Records of Parliament, and out of them are here selected some such as most of all conduce to the opening of the course of Accusation, the form of the Defendants answering, the usual ways of Tryal, and other Incidents of their various kinds of Judgments, which are found Arbitrary in Cases not Capital: so that they extend not to the Life or Inheritance, and in Capital offences so Arbitrary, that the form of the death inflicted sometimes varied from the ordinary course used in the Common Law for such offences. See 3 E. 3. tol. 9. Scrope.

Under

Under the first Head, these Cases of

1. *John Matravers*
2. *Borges* of *Bayons*
3. *John Deverill*
4. *Thomas Gourney*
5. *William* of *Ocle*
6. *John* of *Gomeniz*, and
7. *William* of *Weston.*

All condemned to death for Treason, and all to be drawn and hanged, saving *Gomeniz*, who was judged to be beheaded, because he was a *Banneret*, and had served the King in his Wars.

Under the second Head, are these Cases of

1. *John at Lee, Steward of the Household.*
2. *Richard Lyons.*
3. *William* Lord *Latimer.*
4. *William Ellis.*
5. *Chichester* and *Botesham.*
6. *Alice Pierce.*
7. *Cavendish* against Sir *Mich. de la Poole*, Chancellor of *England.*
8. The *Earl* of *Northumberland.*

For Writs of Error, their power, and course in them may be seen some special Examples which are expressed, whereunto is added that of *Thorpe*, being Speaker of the Commons House, under *Henry* the sixth, which specially shews the power of Judicature in the Lords, although otherwise it tast too much of what is wholly against the Priviledges of every member of the Parliament at this day.

Ex

Ex Rot. Parliament. 4 E. 3. mem. 3. num. 3.

WItneſs the Peers, Earls and *Barons* aſſembled in this Parliament at *Weſtminſter*, that it is openly aſſented and agreed, that *John Matravers* is guilty of the death of *Edmund* Earl of *Kent*, the Uncle of our Lord the King that now is, as he that principally, Trayterouſly and falſly compaſſed the death of the ſaid Earl, ſo that the ſaid *John* did know of the death of King *Edward* our Father, when the ſaid *John* by haynous manner, and by his falſe and wicked deeds conſpiring with the Son of the ſaid Earl againſt the Life of the King, which he did actually commit, for which the ſaid Peers of the Land and Judges of the Parliament, adjudge and award that the ſaid *John* be drawn, hanged and quartered as a Traytor, in what part of the Kingdom ſoever he be found, and the ſaid Peers do pray our Lord the King, that he will command that a writ be made to make ſearch and enquiry throughout the Realm, and that he that can take the ſaid *John* alive, and bring him to the King, ſhall have a hundred Marks, and if in caſe he cannot be taken alive, he that brings his head, ſhall have fifty pounds of the King's gift.

Rot. Parl. 4 E. 3. m. 7. *Boges of Boyons, John Deverel.*

Moreover to have ſuch judgment, it is agreed, that it be put in execution of *Boges de Boyons*, and *John Deverel* for the cauſe afore-mentioned, and that he that can take the ſaid *Boges* alive, and bring him to the King, ſhall have a hundred pounds, and he which brings the head of the ſaid *John*, ſhall have forty pounds of the King's gift.

Thomas Gourney, William of Ocle.

Item, it is aſſented and agreed, that *Thomas Gourney* and *William* of *Ocle*, ſhall have ſuch judgment for the death of King *Edward* (Father of our Lord the King that now is) who falſly and Trayterouſly murdered him; and who can apprehend the ſaid *Thomas*, and take him alive, ſhall have a hundred pound, and he that can bring the head of him a hundred Marks; likewiſe he that can take the ſaid *William* alive, ſhall have a hundred Marks, and he that brings the head of him (if in caſe he cannot be taken alive) ſhall have forty pound of the King's gift.

Rot. Parliamen. 4. R. 2. M. 5. in Schedula annexa.

THIS Schedule the Commons made and cauſed to be brought in Parliament, praying the Lords to ratifie the ſame, and to put

put in execution; in that Schedule, amongſt divers others, this Article occurs.

Item, that all thoſe which have loſt, or rendred when neceſſity required not, Caſtle, Town, or Fortreſs, to the diſhonour of our Lord the King, the Lords and Commons in this preſent Parliament, being every of them attainted of ſuch fault, ſhall be puniſhed according to their deſert without partiality, for to avoid the evil example which they have given to all others.

Then afterwards follows an Accuſation and a Judgment upon an offence of that nature.

ITEM, where the Supplication is by the Commons, that all thoſe which have rendred and loſt Caſtle or Towns, loſt by the very default of Captains, may be put to their anſwer at this *Parliament*, and according to their deſert throughly puniſhed by the *award* of the Lords and *Baronage*, avoiding the evil example which they have given to others, and that *Allen Buxal* (Conſtable of the Tower of *London*) ſhall cauſe to come before the Lords of *Parliament* at *Weſtminſter*, on Friday the 27 day of *November* in the year afore-mentioned, *John* Lord of *Gomeniz*, and *William* of *Weſton*, impriſoned and detain'd in the ſaid Tower at the commandment of

John of *Gomeniz*: *William* of *Weſton*.

our Lord the King, becauſe they have rendred and loſt faithful Caſtles and Towns of our Lord the King, for to anſwer upon the Articles which there ſhall be preferred for the ſaid cauſe, on the behalf of our Lord the King. At which day, being Friday, the ſaid *John* and *William* were brought by the ſaid Conſtable of the Tower before the Lords aforeſaid, ſitting in full *Parliament* in the great Chamber; They were ſeverally put to anſwer at the commandment of the ſaid Lords, by Sir *Richard Scroop* Knt. (Steward of the Houſhold of our Lord the King) in manner as followeth.

William of *Weſton*, you have taken upon you, to the thrice powerful Prince, whom God have in his keeping, Lord *Edward* late King of *England* (Unkle of our Lord the King that now is) ſurely to keep to him, and his Heirs Kings of *England*, the Caſtle of *Barwick*, without ſurrendring the ſame to any but him, or his ſaid Heirs; have you *William* who were a ledge man of our Lord the King that now is (true Heir of the late King *Edward*) delivered and ſurrendered the ſaid Caſtle to the Enemies of our Lord the King, without his Commandment, in diſhonour of him, and his *Crown*, and of the Eſtate of his *Realm* of *England*, againſt your leigeance and undertakings: whereupon he put his anſwer in writing, having a Schedule con-

containing the Tenor of many things, and came and read the ſaid Schedule in full *Parliament*, upon which the Law was demanded by the ſaid Steward, if the ſaid Schedule ſhould be taken for his final anſwer in that behalf or not. And thereupon the ſaid *William* prayeth that the ſaid Schedule may be delivered to him, and there he putteth in his final anſwer, and after the ſaid *William* put into the ſaid Schedule an Addition in full *Parliament* for final in that behalf: The Tenor of which Schedule is ſuch as followeth.

To the moſt ſage Councel of our Lord the King, and to the other Nobles and Commons of Parliament.

The ſame Petition is in the Roll of Petitions, of the firſt of R. 2. 1. & ultimo.

William of *Weſton* beſeecheth, and ſhews that he is accuſed maliciouſly, to have rendered the Caſtle of *Barwick*, which he had in keeping upon the Truſt and aſſignment of our Lord the *King*: may it pleaſe your juſt and learned diſcretion, to have the ſaid *William* excuſed for the cauſes which follow. Firſt, may it pleaſe you to remember how that the ſaid *William* was lately warned by a Spy, that a very great power of Enemies came againſt him, for to beſiege the ſaid Caſtle, and to batter the ſame with great Ordinance, whereupon the ſaid *William* forthwith by his *Attourney*,

tourney, and by his Letters, requeſted the Councel, that they would pleaſe to fortifie the ſaid Caſtle with more Gentlemen, for the defence and ſafeguard thereof, having regard that the Garriſon of the ſaid Caſtle was not ſufficient for half the multitude of ſo great force, to make reſiſtance in ſo large a place; but in the end, for that he could have no ſuccour of the ſaid Councel, and likewiſe (the ſaid *William* being not in default was left without ſufficient Soldiers of a long time, whereby to keep and defend the ſaid Caſtle, whereof he beſeecheth you that you will take juſt and benign conſideration.

Likewiſe, may it pleaſe you to take notice by the privy Scout of War, that there came the Enemies power of *Armes*, and ſeven hundred fighting Men, with 6000 of the common Souldiers of the Land, having nine great Cannons, a great *Engine*, and a *Trebutchet* big above meaſure, which they carried in their marches, that thereby preſently a great part of their Gentlemen of *Arms*, and Souldiers aforeſaid came before the Gates of the ſaid Caſtle, to aſſault it, and there was a Knight of theirs killed, which was cozen to the Lord of *Chiffin*, inſomuch that officers and many others alſo were there ſlain; and in a ſhort time after they began to plant their Cannons, and *Engines*, and ſo continuing from day to day their aſſault, (that is to ſay)

Tueſday,

Tueſday, Wedneſday, and Thurſday, and the walls then of the houſes and of the ſaid Caſtle were broken, and divided in many places, and they had by force filled the ditches of the ſaid Caſtle in three places, if poſſible to make way for them to iſſue, and there came upon the ſaid works a great part of them, and they by force had broke and ſpoyled many of our bars, and the morrow after which was Friday, they came at the break of day with all their ſtrong Men to aſſail the ſaid Caſtle, but by the help of God they were not yet *Conquerours* by force of their Aſſault. And of our ſide and of their ſide there appeared great death and loſſes, and the ſame day the Marſhal of *Burgoyny* treated with the ſaid *William* and others, to render the ſaid Caſtle: Wherefore, and in conſideration, that the ſaid Caſtle could not hold out for the ſmallneſs of the number of Gentlemen there, and for that the walls in many places were beaten down by their marvellous Ordnance, there was a *Treaty* with the Lords, to the end that the ſaid *William* with his companions, might know what to do the next morning, whether to ſtay or depart from thence. Likewiſe the ſame night the Enemies had brought all their Ordinance, their *Engines*, *Trebutchet* and *Cannons*, upon carriages drawn by Horſes to the foot of the ditch of the ſaid Caſtle, and the next morning, which was Saturday,

they put themſelves all in *Order* to aſſault the place, and then firſt of all they ſent a *Herald* to the ſaid *William*, to know if the ſame Caſtle ſhould be rendred or not; whereupon the ſaid *William*, by advice of the graver ſort of his companions, having conſideration how the ſaid place was deſtroyed by their Ordinances, and alſo that there were few Gentlemen left for the defence, and that twelve of their companions were at that time dead, and that many being wounded and ſick, he could not renew the Gentlemen of the *Garriſon*, and that for ſafety to defend themſelves, there being only but thirty eight, and by common aſſent the ſaid Caſtle which he could hold out no longer, was by force rendered for ſafety of the lives of the Men. That all theſe things aforeſaid are true, the ſaid *William* putteth himſelf upon Tryal according to your diſcreet Ordinances.

Item, it is to be remembred, that when the ſaid Caſtle was rendered (as aforeſaid) certain Gentlemen of *France* did bargain with the ſaid *William* for his victuals, and bought the ſame, together with certain perſons which the ſaid *William* held within the ſaid Caſtle in Priſon, for which he received of them 1000 and 500 *Franks*, whereof he paid to his companions for part of their wages which then was behind, three quarters of a year, 678 *Franks*.

Item,

Item, he payed at *Callis* for victuals of the ſaid Caſtle before that time due 1442 Franks.

Item, for the paſſage of the ſaid *William*, and for his expences being at *Callis* 135 Franks. And therefore the ſaid *William* beſeecheth that you have regard to Juſtice and bounty, how that he by envious ſuggeſtion hath been againſt all reaſon accuſed thereof concerning his eſtate and name, for which offence he hath ſeiſed and ſtayed ſome of the Cattels of his Adverſaries, and that you have conſideration how that he hath pay'd his companions out of his proper goods for their wages, and that you will be pleaſed for Gods ſake and piety alſo to ordain for him, that by your diſcreet nobleneſs, he may recover his Eſtate and goods.

Item, the ſaid *William Weſton* ſheweth how the firſt day, when the Enemies came before *Ardee* he fled thence to the Army at *Callis*, to the Captain there, to pray of him more ſuccour and aid of men to guard the Caſtle of *Barwick*, and to defend if the Enemies had aſſaulted, and the Captain anſwered him briefly, that he would not deliver nor lend ſuccour, nor aid at that time, for that he doubted himſelf the Enemies would come before the Town of *Callis*. And the Lord Steward came and read the ſaid Schedule in Parliament. *John* Lord of *Gomeniz*, you have undertaken to the thrice powerful Prince, whom

whom God preſerve, Lord *Edward* late King of *England*, Uncle of our Lord the King that now is, ſafely to keep to him and his Heirs Kings of *England*, the Town and Caſtle of *Ardee*, without ſurrendring the ſame to any, but to the ſaid King and his Heirs, or by the Commandment of him and his Heirs. Have you (Lord of *Gomeniz*) in the time of our Lord the King ſurrendred the ſame without his commandment, to the detriment of him and his Crown, and of the Eſtate of his Realm of *England* againſt your undertaking aforeſaid? what ſay you to it? whereupon the ſaid *John* anſwereth, that the ſaid Town and Caſtle of *Ardee* was ſo feeble, that he could not well keep it againſt ſo great power of the Enemies, which were ready to aſſail the ſaid Town and Caſtle, and therefore he went forth to intreat with the Enemies, that he might ſave the liege men of our Lord the King being within that Town and Caſtle of *Ardee*, without that he at any time took any thing for the ſurrender of the ſaid Town and Caſtle of *Ardee*. Whereupon one *Geffery* of *Argentine* Knt. ſaid in full Parliament to the ſaid *John*, that he the ſaid *Geffery* was at that time in the ſaid Town and Company with the ſaid *John*, and that the Town and Caſtle of *Ardee* were not at any time delivered by his aſſent, but that he was ready to ſtay and come upon the ſafe guard there-

of,

of, and this the ſaid *Geffery* affirmed. And moreover it was demanded of the ſaid *John* if he had any other thing to ſay, and he anſwered no? whereupon the Conſtable was charged with the ſafe keeping of the ſaid *John* and *William*, until the morning of the next day; and then to bring them again ſafely before the ſaid Lords in the ſaid Parliament at the place and day aforeſaid. At which day (that is to ſay) the eight and twentieth day of *November*, in the year aforeſaid, were the ſaid *John* and *William* brought again in full Parliament, and there it was ſhewed ſeverally by the ſaid Steward at the ſame day, by Commandment of the Lords aforeſaid, how upon the Anſwers which the ſaid *John* and *William* have given in the ſaid Parliament, (as before mentioned) to the Lords of the ſaid Parliament, *viz.* the King of *Caſtile* and of *Leon*, and the Duke of *Lancaſter*; *Edmond* Earl of *March*, *Richard* Earl of *Arundel*: *Thomas* Earl of *Warwick*, *Hugh* Earl of *Stafford*, *William* Earl of *Suffolk*, *William* Earl of *Salisbury*, *Henry* Earl of *Northumberland*, *John* Lord *Nevil*, *Roger* Lord *Clifford*; and many other Lords, Barons, and Baronets being aſſembled in the ſaid Parliament, to adviſe at the time when the ſaid Anſwers were given in Parliament, the Friday Even at the hower of three a clock, of the matters touching the anſwers aforeſaid, and viewing

ing and examining diligently the said Answers, and other Articles concerning that business. And upon good and mature deliberation and Information, given of the most valiant and discreet Knights, and others being in the said Parliament, it was said in manner as followeth, to the said *William* by the Steward, reciting the things aforesaid, touching the said *William*. It seemed to the Lords aforesaid, that you *William*, without duress or default of victuals, have wickedly delivered, and surrendered to the Enemies of our Lord the King for your own lucre, contrary to all plea of right or reason, and against your liegeance and undertaking according to an Information in such case: which mentioneth, whereas the late Baron of *Grayſtock*, who was a Lord and one of the Peers of the Realm, had taken upon him safely to keep to the aforesaid King, the Town of *Barwick*: presently after the said King prepared himself to travel to the Kingdom of *France*; the said Baron, without the King's Commandment, left the said Town of *Barwick*, and a valiant Esquire, *Robert Ogle*, as Lieutenant of the said Baron, who safely should keep the said Town of *Barwick* to the King. And the said Baron went as an Horseman to the Parts of *France* to the said King, and there stayed in his company, surmizing that an Assault of War was made

made at the ſaid Town of *Barwick* by the *Scots*. And the ſaid *Robert*, as Lieutenant of the ſaid Baron, defended forcibly there, and at laſt by their Aſſaults the ſaid Town was taken, and the ſaid *Robert*, and two of the Sons of the ſaid *Robert* were ſlain, he being in the company of the King, in the Parts of *France*: And it was ſaid that it was adjudged by the adviſe of the ſaid King in the Parts of *France*; and the ſaid Dukes, Nobles, and Earls, together with *Henry* Duke of *Lancaſter*, the Earls of *Northumberland*, and *Stafford*, and Sir *Walter Maney*, that the ſaid Town was loſt in default of the ſaid Baron. And for that cauſe he had Judgment of Life and Member, and that he ought to forfeit all that he had, and Judgment was rendred in theſe words by the Commandment of the King; Which things alſo conſidered, for that you *William* have ſurrendred the Caſtle of *Barwick* to the Enemies of our Lord the King aforeſaid, without dureſs or default of Victual, againſt your allegeance, and undertaking aforeſaid, the Lords afore-named ſitting in full Parliament adjudge you to death, and that you be drawn and hanged, but for that our Lord the King is not yet informed of the manner of this Judgment, the Execution thereof ſhall be put in writing untill the King be informed: wherefore it is com-

commanded to the ſaid Conſtable ſafely to keep the ſaid *William*, untill he hath other Commandment from our Lord the King. And as touching the ſaid *John* Lord of *Gomeniz*, touching the Anſwers aforeſaid; It was ſhewed there by the ſaid Steward, how the ſaid Lords were aſſembled, and adviſed of the ſaid Anſwers as beforeſaid. Moreover it was ſhewed, how that at the time that Sir *Ralph Ferrars* Knight had the keeping of the Town and Caſtle of *Ardee*, the ſaid Town was not ſo ſtrong by the one half, as it was at the time when the ſaid *John* ſurrendred the ſame, and the ſaid *Ralph* did put himſelf in peril for the ſafeguard thereof, and forthwith the ſaid *Ralph* did hold, and forcibly defend the ſame againſt a very great and forcible aſſault; and other evidences concerning the ſaid *John* in this behalf were delivered, (as followeth) to the ſaid *John* being in Parliament, by the ſaid Steward, reciting all the matters aforeſaid touching the forementioned Judgment of the ſaid Baron and the cauſe thereof, in manner as before it ſeemeth to the Lords before named ſitting in full Parliament, conſidering your anſwers in this behalf, and your Examinations, and Informations therein, that lately amongſt the number of Gentlemen, by whom you have ſtrongly undertaken ſafely to keep the ſaid Town and Caſtle

ſtle with twenty men of Arms, and twenty Archers, you were ſent to the ſaid Town and Caſtle of *Ardee* in the Afforcement thereof, according to your requeſt thereof made to certain Lords, being ſent in meſſage to *Callis* under our late King *Edward*, and at ſuch time alſo as you were adviſed by the King of *Caſtile*, that if you could not well keep it, you ought in no ſort to take upon you to keep the ſame, and there were that would have undertaken the ſafe keeping thereof to the ſaid King *Edward* and his Heirs, and you have undertaken ſafely to guard the ſame with no ſurrender to any, but in manner as aforeſaid, and now have you *John*, without dureſs or default of Victuals or of Artillery, or of other things neceſſary for the defence of the ſaid Towns and Caſtles of *Ardee*, without Commandment of our Lord the King, wickedly delivered and ſurrendered it to the Enemies of our Lord the King, by your own default againſt all plea of right or reaſon; and againſt your undertaking aforeſaid, The Lords aforeſaid in full Parliament adjudge you to death; and for that you were a Gentlemen and Banneret, and have ſerved the late King *Edward* in his Wars, and have not proved a leige man to our Lord the King, you ſhall be beheaded without having other Juſtice. And for that alſo our Lord the King is not

yet

yet informed of the manner of this Judgment, the execution thereof shall be respited until our Lord the King shall be informed thereof, where it is commanded to the aforesaid Constable safely to keep the said *John*, until he hath other commandment from our Lord the King. And it is to be remembred that *Geffery Martyn*, Clerk of the Crown, was named in this Record, and delivered the same there in writing in this present Roll, by his own proper hand.

Ex. Rot. Parliament. 42 *E.* 3. *M.* 2. *N.* 22. 23. *&c.*

William Latimer of the County of *Dorset* preferred a Petition in this *Parliament*, in manner as followeth. To our Lord the King and his Councel sheweth *William Latimer* of the County of *Dorset*, that whereas our Lord the King otherwhiles in the pestilence granted to the Bishop of *Salisbury* the Wardship of the Mannor of *Dentish*, and *Devillish*, in the said County, being in his hands, by the minority of *Robert* son and heir of *Robert Latimer* Knt. together with the marriage of the said *Robert* the Son, being then of the Age of six years for a certain sum of Money to him payed? which Estate the said *William Latimer* hath held, until Master *John Lee* then Steward, by procurement

ment of *Thomas Delaber*, sent one *Richard Inworth* Serjeant at Arms in *Dorset*, to the said *William Latimer*, to bring him to *London* in safeguard as prisoner with the intent aforesaid; that is to say, the Monday next before the Feast of the Nativity of Saint *John* the *Baptist*, in the year of our Lord the King that now is the nine and thirtieth; and the said Serjeant also performed the same, and the said Mr. *John Lee* did charge, and command the said *William* in the King's name, that he should not go out of Town upon pain of a hundred Marks, until he had surrendred the body of the said Heir, contrary to the patent of the King, to the said Mr. *John Lee*, and outed the said *William* of his Charter, and moreover made a deed of Release, whereupon the said Mr. *John Lee* commanded to hold all the Lands, and Tenements aforesaid, until the Feast of St. *Michael* then next ensuing, for a certain sum of Money, and then the said Mr. *John Lee* leased to the said *William*, the Wardship of the said Mannor of *Devillish*, rendring forty pounds *per annum*, whereof he was seised as *prochein amy* of the Infant, *viz.* *Pulchrain*, *Helto*, *Whitechurch*, *Oxford*, and *Staket*, and let the same to the said *William*, and to divers other persons at his will, by such duress, imprisonment and arresting the said *William*,

John Lee Steward of the household.

to the great miſcheif, grievous dammages and loſſes, to the great wrong of his ſimple Eſtate, whereof he prayeth remedy. To the points of which Petition the ſaid *John Lee* anſwereth, and ſaith, that becauſe that the Mannors, Lands, and Tenements of Inheritance there compriſed in the ſaid Petition, were wickedly extended by the Eſcheator, and leaſed out of the King's hand at two ſmall a value, to the great dammage and deceit of the King, he cauſed the ſame Mannors, Lands and Tenements to be reſumed into the Kings hands, the Wardſhip of which Mannors, and the Marriage of which ſaid Heir the King had committed to him.

And likewiſe the ſaid *John Lee* was put to anſwer before the Lords, of the Affairs in ſuch time as he was Steward of the Kings Houſhold, for that he had attached divers Gentlemen by their Bodies, ſome by Serjeants of Arms, and ſome by other ways, as *William Latimer* and others, and cauſed them to come before himſelf, as before the Councel of the King, in places where pleaſed him, out of any of the Kings accuſtomed places, to anſwer to divers things, whereas the recognizances ought to appertain to the Courts of the King.

Item, It was debated concerning the Authority of Stewardſhip, that he within the Verge had attached divers Gentlemen of the

the Verge, as *John Goddard*, and others, to anſwer in the Marſhalſea of things done out of the Verge, and cauſed ſome Men to be apprehended, and ſent to the Tower of *London*, of his own Authority, without Commandment of the King or his Councel.

It was likewiſe debated, that *Hugh Lavenham* had appealed certain Gentlemen of Felony, and that before the Kings Juſtices at *Newgate*, and divers Gentlemen arraigned at his ſuit, whereof ſome put themſelves upon the Country, and ſome defended themſelves by their bodies, and ſtayed in priſon as the Law demanded, and that an *Appealee* of murder was let go at large, by Commandment of the ſaid *John Lee*, againſt the Law, and Command of the Juſtices, and that he took the ſaid *Hugh* by his own Authority and let him go at large, and ſome that were not *Appealees* in roll of the Crown, at the ſuggeſtion of the ſaid *Hugh* were taken and impriſoned, as if they had been *Appealees*.

It was alſo affirmed, that whereas the ſaid *John Lee* was ſworn to the King, and his Councel; he did bargain with Maſter *Nicholas Lovain*, concerning the Wardſhip of the Mannor of *Reinham* in *Kent*, being then in the hand of the ſaid *Nicholas*, by the under age of the Son and heir of *John Stanton*, as appeared by certain evidences,

as well by Letters Patents under the King's Great Seal, as others which the ſaid *John* had in his keeping, that very plainly, the ſaid Mannor was holden of our Lord the King in chief, as of his Caſtle of *Dover* and Fort, that the Wardſhip thereof appertained to the King, to the great dammage and deceit of the King againſt his Oath. Of which points and articles, he cannot duly and ſufficiently excuſe himſelf by the *Law*, and therefore was the ſaid *John* commanded to the Tower of *London*, and there to ſtay as a Priſoner, till he had made fine and ranſom to the King according to his will. And it was commanded to Maſter *Allen Buxal*, Conſtable of the Tower, that he take ſafe keeping of him, and ſo departed the *Prelates*, *Dukes*, *Earls*, and *Barons*, and afterwards by the commandment of the King, the ſaid *John* was cauſed to come guarded from the Tower to *Weſtminſter*, before the Great Councel, and at other times examined upon the points of the Petition; the ſaid *William Latimer* anſwered and ſaid: That our Lord the King had committed the Wardſhip of the Mannors, Lands and Tenements of the ſaid heir, until the age of the ſaid heir, together with the marriage of the ſaid heir; and as intirely he would render it into the King's hands: And then before the ſaid Councel it was

agreed

agreed and assented by them: That the said Mannors, Lands and Tenements, and the Body of the heir aforesaid ought to be released in the Kings hand, and delivered to the said *William Latimer*, to hold as he held of the said Bishop, until the full Age of the said Heir, doing to the King in manner as it was before the said *John* surrendred the same; and that the Letters Patents of the King made to the said Bishop, of the same Ward and Marriage made to the said *William*, and surrendred to the said *John* by the said *William* by durity and menaces, be fully restored to the said *William*, and that the Enrolment of the release to the said *John* by the said *William* of the same Ward and Marriage, also by durity and threatning made as by the said *William* in the Exchequer, be cancelled, void, and holden for nought for ever, saving all times to the King his right in time to come.

Ex. Rot. Parl. 50 *E.* 3. *mem.* 2. *num.* 17.

FIrst, the said *Richard Lions* Merchant of *London*, was impeached and accused by the said Commons, of many deceits, extortions, and other evil deeds committed by him, against our Lord the King, and his People, as well in the time that he had been belonging to the House and Council of the

King as otherwiſe, during the time that he was Farmer of the Subſedies and Cuſtoms of the King. And more eſpecially, for that the ſaid *Richard* by *Covin* had between him, and ſome of the Privy Council of our Lord the King, for their ſingular profit, and advantage, had procured and gotten many Patents, and Writs of Licence to be made to carry great Faith and Credit. Whereby Skins, Wools, and other Merchandiſes were tranſported otherwhere than to the Staple of *Callis*, againſt the Ordinances and Defences made in that behalf, concerning the ſame before-time in Parliament. And for that he had impoſed and procured to be put upon Wools, Skins, Leather and other Merchandiſes, certain new Impoſitions without aſſent of Parliament, and thoſe Impoſitions and Taxes without permiſſion of the King, or of the High Treaſurer of the *Realm*, having not medlage therewith; and it was ſaid how he uncertainly took ten ſhillings in one parcel, and twelve pence in another parcel of every Sack, &c. which mounted to a very great Sum throughout all the time that he had been Receiver, or Treaſurer: and likewiſe of another new Impoſition of four pence by him made, and put upon every pound of Money upon the *Lumbards*, and other Merchants, for a diſcharge by his own proper Authority, and without warrant and aſſent

assent in *Parliament*, or otherwise, and the same Imposition of four pence the pound, contrary to Piety, collected and kept as to the use of our Lord the King, whereof he payed nothing. And also of divers Loans made to the use of the King without cause necessary; and more especially of one Loan which he newly had at *London*, of twenty thousand Marks, where our Lord the King was bound to pay 30000 Marks, and that by the Counsel of the said *Richard*, and others in the Kings Court, who have covenanted with the Receivers to have part of the gain, and to be parties secretly to the said Loan: the said *Richard* taketh the said Money, and afterwards gaineth by way of Usury of the King his Lord, (of whose Council he was before) a great quantity of Money, in great damage and deceit to the King, and also many other Extortions throughout the *Realm*, and so demeaned himself against his Council, Treasurer and Receiver, concerning the new Impositions as otherwise, taking upon him in all the said matters the Royal Power which was horrible to rehearse. And also for that our Lord the King had been debtor of Record to divers Gentlemen, of many great sums of Money; so had the said *Richard* by the assent of other privy Complices in the Kings Court, of the said *Covin*, caused many such accounts to be bargained,

and compounded, ſometimes for the tenth penny, and ſometimes for the twentieth, or a hundreth penny, and hath procured the King to pay the debts intire; and ſo by ſuch his ſubtleties, and for his ſingular profits, as well our Lord the King as the ſaid debts, are wickedly abuſed: and more eſpecially the Prior of St. *John* of *Jeruſalem* in *England*, to whom the King was debtor of a certain Sum, and the ſaid *Richard* hath had twenty four Marks thereof for Broakage, to cauſe the ſaid Prior to have payment of the remnant: and another time of the Lord *Steward*, to whom the King was alſo a debtor, and the ſaid *Richard* hath had of him by the ſame manner another great Sum of Money, and ſo of many others, in great deceit, ſlander, and villany to the King and his Court. Whereunto the ſaid *Richard*, preſent in Parliament, ſaith, that as to all the ſaid Loan made to the King of the twenty Marks aforeſaid, he is altogether without other fault, and further ſaith, that he at no time had profit or gain, or took any thing at all of the Loan aforeſaid, nor of the ſaid Money, nor in other things, and that he was ready to prove by all ways reaſonable when they would demand of him: and as to the ſaid Impoſition of ten Shillings, and twelve pence the Sack of Wool, *&c.* and four pence the pound of Money, he could not clearly ex-

excuse himself that he had not so levied and collected, and thereof taken money his part, that is to say, twelve pence of every Sack of Wool, &c. but that was (he said) at the commandment of our Lord the King, and at the prayer and assent of the Merchants, who demanded such Licence; and as to the remnants of these Impositions he had wholly delivered them to the Receiver of the Kings Chamber, and accountable is the Receiver in the Parliament. And the said *Richard* first of all collected the same, having a Warrant, by which Authority he hath before shewed in Parliament, under the Seal of the King himself and his Council to do, and thereupon were Witnesses produced in Parliament, that our Lord the King had expressed a day for the same. And some Lords there present in Parliament were, that knew not how or in what manner he was become in such office under the King, (and what is more) that the King knew him not for his Officer, and that amongst other Articles, the said *Richard* made no answer, wherefore the said *Richard* was awarded to Prison during the Kings pleasure, and distrained to fine and ransom according to the quantity of his Trespass; and that he lose his Freedom of the City of *London*, and be no more in Office under the King, nor approach to the Kings Court or Council; and thereupon

another time the said *Richard* was sent for before the Lords of Parliament, where it was said to him, that it seemed to the Lords that his Offences were so great and horrible, that he had not sufficient wherewith to make satisfaction, and forthwith the said *Richard* submitted himself into the favour of the King, his Body, his Lands, Tenements, Goods and Chattels, and willed and granted that his Body, Goods, and Chattels should be at the Kings will to give; and as to the Extorsions done by the said *Richard*, or his Deputies, from the time that he was Farmer of the Subsedies, or Customs as beforesaid, it is ordained in Parliament that good Inquiry be made by sufficient Gentlemen in all the Ports of *England*.

Ibidem N. 21.

The Lord *Latimer*.

ITem, *William* Lord *Latimer* was impeached and accused by the Vote of the said Earls, of Deceits, Extorsions, Grievances, and other Mischiefs by him, and others of his Faction and Covin, during the time he stayed, as well under our Lord the King in *Brittain*, when he was in Office with the King, as otherwise in *England* the time that he was Chamberlain, and of the Privy Council of the same our Lord the King. First of all, concerning that when the

the said Lord *Latimer* had been Captain of *Becherel*, and Officer of the late King *Edward* in *Brittain*, if before or during the Peace or Truce it was committed. And thereupon it was proclaimed and published under the King through *Brittain*, That no *English* man, nor other Foreigner, shall take Wines, Victuals, nor other things of any Persons, Towns, Castles, nor of others, except they pay presently for them; nor shall they take or ransom any Person, Town, Fortress, or other place, upon pain of what they may forfeit; notwithstanding all which the said Lord *Latimer*, and his Lieutenants and Officers caused to be taken by wrong and violence, of divers Gentlemen of the Country, much Wines and Victuals to a great value, without paying any thing, and likewise ransomed many by Oaths, and in taking and receiving Ransoms unto the Sum of four Millions, and three thousand pounds: whereof our Lord the King enjoyed nothing, to the great damage and villany of the King, and Oppression of his People and the said parts, and against the Proclamation and defence aforesaid, as in a Letter made and sealed with the Seals of many Lords of *Brittain*, called *Ragman*, and sent into *England* to our Lord the King aforesaid, more at large appeared; but the said *Ragman* could not be found in any sort, nor

any

any man knew how to say in truth, what became of it; and yet he at another time was accused thereof, that he had taken at *Becherel* and *Plimoyson*, from thence unduly 153 *l.* w. of Gold, whereof the King had never any part, nor any Restitution made thereof, and the parties from whom those Sums were taken, preferred a Bill in Parliament in form as followeth.

It is to be remembred, that the proofs of parties that were ransomed at *Becherel* and *Plimoyson* during the time of Truce, have paid so much to Master *John*, Port-Constable of *Becherel*, for the Lord *Latimer*, and to *William* his Son, and to *Hugh Middleton*, Receiver of the said Town, or to the Lord *Latimer* departed out of *Brittain*.

The yearly Sum 40 *Franks.*

And likewise the said Constables, *William* and *Hugh*, have received of the Ransoms of such as were wont to be ransomed during the War, more Moneys than would have well paid all the Souldiers of the said Town.

The Sum 50 *Franks.*

And likewise the said Country of *Brittain* have paied to the said Constables, *William* and *Hugh*, for the death of divers Gentlemen,

men, liege-men of our Lord the King, that were killed upon the Land of *Brittain*.

The Sum 30 *Franks.*

And likewise the said Constable, and *William* his Son, gathered upon the Country of *Brittain*, to send Monsieur *Gakes* from *Plimouth* dates to *England*.

The Sum 12 *Franks.*

And likewise the said *William*, for that he lost twenty Marks in the Isle of *Garnesey*, in a Ship, put a fine and ransom upon the said *Becherel*.

The Sum 1000 *Franks.*

And likewise *Robert Ravenston's* Boy had stollen a half Salt-seller of Silver, and therefore the Land of *Brittaine* was ransomed.

The Sum 2 *Franks.*

And likewise the said Constables *William* and *Hugh*, Receivers of the said Town, had received divers times for Victuals sold, as Salt, Wine, Beef, and other commodities, to the Sum of a thousand Franks, to the great loss of your poor liege-men, and to the Town of *Becherell*. For by these extortions which they had borne and sustained, by the horrible necessity of the poor people, and likewise of the Gentlemen, was the said

Town

Town loſt. Wherefore they beſeech our Lord the King and his Councel, to cauſe the ſaid Conſtables, *William* and *Hugh*, to come and anſwer the aforeſaid Receipts, ſo that our Lord the King may be ſerved of that which belongeth to him; and that your poor liege-men that were in the defence of the ſaid Town, may be paid their Wages for the time that they were in the ſaid Town, if ſo it be your pleaſure.

And likewiſe the ſaid Lord *Latimer* was impeached by the Commons of divers Loans, made to the uſe of the King without cauſe neceſſary, to the great loſs and grievous damage of the King, and more eſpecially of a Loan that was made of late to the uſe of the King, by the Counſel of the Lord *Latimer*, *Richard Lions*, and others of his Covin, of twenty thouſand marks, where our Lord the King was obliged to his Creditors in the ſaid Caſe to pay again thirty thouſand marks, and that was done by Covin of the ſaid Lord *Latimer*, and others that were privy with the ſaid Creditors, to have part of the ſaid Gain, and to be parties to the ſaid deed, or without anſwering the ſaid Loans; for it was furniſhed in ſpecial, that the ſaid money was the Kings own, taken out of his Chamber or Treaſury, and alſo the proper mony of the ſaid Lord *Latimer* and *Richard Lions*, who appeared as if oppreſſed

oppreſſed by the ſaid loan, and alſo for that by like covin between him and the ſaid *Rich. Lions*, for their ſingular profit and gain, he had procured and counſelled our Lord the King to grant many Licences by Patents and Writs, to cauſe a great quantity Wools, Skins, and Leather, and other things, to be carried to parts beyond the Sea, other then to *Callis*, againſt the Ordinances and defences made before time in that behalf, to the deſtruction of the ſtaple of *Callis* and of the moneyage there, to the great dammage of the King, and of the Realm of *England*, and hurt of the Town of *Callis*: and and likewiſe that by ſuch covin done between him and the ſaid *Richard Lions*, for their ſingular profit, he had cauſed to be put upon the Wools, Skins, Leather, and other Merchandiſes of the Staple, divers new Impoſitions. That is to ſay, of every Sack of Wool paſſing otherwhere than to *Callis*, by ſuch Licence 11 *s.* more, againſt the Statutes and Ordinances thereof made, and alſo for that by his ſingular profit and ill government between our Lord the King and his Realm, they have had and ſuffered many other grievances, loſſes, dammages, and villanies without number, as the loſs of the Town of St. *Saviour* in *Normandy*, and of the ſaid place of *Becherel*, and of other Fortreſſes, which might have been well ſaved

and

and kept, if the King had been well counselled.

And also concerning certain Spies and other Felons taken and imprisoned by the King, and after delivered by the Lord *Latimer*, of his own proper Authority, without the knowledge or pleasure of the King, taking upon him, and incroaching notoriously in doing these things upon the Royal power.

Whereunto the said Lord *Latimer* then present in Parliament said: That saving to him what ought to be saved to him, as to one of the Peers of the Realm, as well in giving of Judgment as otherways in time to come, if please our Lord the King, and the Lords assembled, he might be put to answer to him which in especial would accuse him of any of the matters aforesaid; and afterwards, for that no especial person would openly accuse the said Lord of the same things in Parliament, whereof the Commons would maintain the said Accusations against the said Lord *Latimer*, in accusation of his person and Declaration of his Fame, he said, That true it was, that he was Captain of *Becherel*, and that such a Peace was made in *Brittain* under the King, and that an inquiry was made and put in writing, and sealed with many Seals of the Lords of *Brittain*, and sent to our Lord the King in *England*, which Enquest

is

is there called *Ragman*, but he saith that this Inquest was made by the *Brittons* and *French*, which would not have our Lord the King, nor any *Englishman* for their Governour; and falsly to have destroyed the said Lord: and he saith now (as other times he hath said) to our Lord the King when he was in like manner impeached thereof before the King himself, that all the profits, which he at any time received by himself, or otherwise in *Brittain*, passed not in all things the Sum of 10000 *l.* accounted in the same Sum of 10000 *l.* all the profits which he received for Ransom of the Viscount of *Roan*, and of other Prisoners which he took at the battel of *Crey*; and that he is ready to prove by all reasonable ways that one of his Estate and Degree ought to do; and he saith, that it seemeth by the Laws of Nations, that the said *Ragman* is not to be allowed, and that it was done by the Enemies of the King and Realm, (as aforesaid) and likewise made out of the Realm, and that therefore all men ought not to hold him of the less Credit or Reputation. And soon after the Commons having this answer of Submission, prayed the Lords of Parliament in behalf of the King, that the 10000 *l.* Execution be had forthwith against the said Lord *Latimer*, as of a thing past by the said Submission thereof, as he hath acknowledged at another

time, when he was impeached thereof, and that the ſaid Submiſſion be made by him, as it ought to be, nor that any remonſtrance or agreement be made to the King, nor pardon, nor other thing gotten, by which he may be diſcharged. And the Lords anſwered, that the ſaid Anſwer ſhould be reported to our Lord the King, and thereupon right ſhall be done for the King; and as to the ſaid Bill preferred afore in Parliament concerning ſuch men as he made his Deputies or Lieutenants at *Becherel* and *Plimoyſon*, the ſaid Lord *Latimer* ſaith, that he is altogether innocent and without blame, even at the time that the ſaid *Ragman* was ſo made and ſent to our Lord the King. And the Lords anſwered thereunto, that they would take advice of the Kings Council, and thereupon right ſhould be done on every part. As to the Loans made to the uſe of our Lord the King without neceſſary cauſe, he anſwereth and ſaith, that he knew of none without cauſe very neceſſary and greatly behooveful. And to that, that the intent is ſubmitted to be falſe Covin, or other diſloyalty for profit, or to have part; he ſaith, that he is altogether innocent, and not guilty: and that he never delivered nor took any Money, or other thing of the King, nor of any other, to make the ſaid pretended Loan; and that he was ready to prove by all ways that a man

man ought to do. And as to the Patents and Writs made and granted for the passing of Wools, Skins, Leather, &c. otherwhere than to the Staple of *Callis*, he saith, That those Licenses were commenced before his time, with the King as well at *Genoa* and *Venice*, as otherwhere; and further saith, that if nothing thereof had been done till his time, the same had not been done, nor was pursued by his Counsel only, but by him with others; and that there accrewed thereby by vertue of the King's Grant, great profit to the King, Whereof he was answered in his Chamber. And as to the new Impositions, the same were never put upon the Wools, Skins, and Leather by him of late, nor upon the Countrey in any part, but only the Subsidies thereof granted in Parliament, and that at the instance and prayer of those who demanded such licences, which payd voluntary and without any compulsion 11 *s.* the Sack, that is to say, 10 *s.* to the use of the King, and the twelve pence to the use of the Clerks, writing and perusing the said Licences, which moneys he hath not yet put in certain; and farther saith, that he took nothing thereof to his own profit, by himself nor any other, and that he is ready to prove by all reasonable ways, and thereupon it was witnessed in Parliament by Mr. *Richard Scroop* Chancellor, late Treasurer

of our Lord the King, that *Wil. Walworth* of *London* in time when the ſaid Loan was made to the King of the ſaid 20 thouſand Marks, the ſaid *Wil. Walworth* profered in behalf of himſelf and his Companions, Merchants of the ſaid Staple of *Callis*, to the Lord *Latimer*, to make a Loan to our Lord the King of 10000 *l.* without repaying any thing for increaſe by Uſury, or otherwiſe by covenant, ſo that they might be repayed the ſaid ten thouſand pounds in their proper hands of the Subſidies due to the King, of their Wool, *&c.* then next to be paſſed to *Callis*, and that the King ſhould covenant and grant that no ſuch Licenſes ſhall be henceforth granted to carry Wools, *&c.* out of the Kingdom, further then the Staple of *Callis*. To which the ſaid Lord *Latimer* anſwers and ſaith, that he had no ſuch proffer of them; and the other affirming the contrary, wondered that the ſaid *Wil. Walworth* ſhould make ſuch a proffer. And as to the loſs of the ſaid Towns and Forts, and the deliverance of ſome Spies or Felons ſo impriſoned; the ſaid Lord alſo ſaith that he is not guilty, and that he will prove and avow by all reaſonable ways that he ought to do. And thereupon many other Words and Reaſons ſhewn, and Pleas as well in full Parliament, as otherwiſe before the Prelates and Lords only, as well for the part of our Lord the King, as for the part of the

ſaid

said Lord *Latimer*, and many Examinations in print, as well as otherwise, after full deliberation thereof had, Judgment was rendred in Parliament against the said Lord *Latimer* in these words that follow.

For that the said Lord *Latimer* is found in full Parliament in default by his singular Government and Counsel against the profit of the King and his Realm. That is to say, of divers Loans procured unto the Kings loss without necessary cause, and also of Patents made in destruction of the Staple of *Callis*, and also of divers Impositions put upon Wools against the Statute of Parliament in that behalf lately made, he is awarded by the Prelates and Lords in full Parliament to Prison, to be kept in Ward of the Marshal, and to make ransom at the Kings Will; whereupon the said Commons beseech the King, for that he is found in such defaults by his singular Counsels, he being in all Offices of the King, and especially one of the Kings Privy Council throughout all that time, it was requested that the King would be pleased to grant that the said Lord might go under bail, whereupon the King willed and granted that the said Lord *Latimer* should find in Parliament certain Prelates, Lords, and others during the Parliament, to have his Body before the King and the Lords, to answer further to the Articles whereof he was

ſo arreſted under a certain pain and form comprized in a Schedule annexed. And under ſuch Surety, the Marſhal of *England* let him go at liberty.

Ibidem, N. 31.

ITem, *William Ellis* of great *Jermouth* is impeached and accuſed in this preſent Parliament in divers manners, firſt, *viz.* by the ſurmiſe of the Commons made to him, that the ſaid *William* whilſt he was Farmer to our Lord the King of his petty Cuſtoms in the Port of great *Jermouth*, and Deputy of *Richard Lions* Farmor of the Subſidies of 6 *d.* the pound, granted by our Lord the King of all Merchandiſes paſſing out of the Kingdom, and entering in the ſame, for the ſafeguard of the Sea, and of the Merchants paſſing by Sea, and of their Merchandiſe, he did take by him and his Servants, as well *Engliſh* as of Strangers in the ſaid Ports and Members thereof, by way of Extorſion, by colour of his ſaid Offices, many great Sums of Money, and otherwiſe that he ought not to have done, in great Prejudice, Slander of the King, and damage of the ſaid Realm, and to the Oppreſſion and wrong of the Merchants aforeſaid.

And the ſaid *William Ellis* preſent in Parliament, ſaith, that true it is, that he is one

one of the Farmers of the ſaid petty Cuſtoms of the Merchants paſſing and coming, ſaving the purport of the Commiſſions thereof made, without that that he took the ſame, or cauſed any thing to be taken by Extortion, more than was clearly due to the King, and that he was ready to prove to the King, by whatſoever way he ought to do; and the Commons replying ſaid, that the ſaid *William* confeſſed to them in the Common Aſſembly in the Chapter Houſe within the Abby of *Weſtminſter* the day before, that he had received the ſaid thirty three pound, and prayed that againſt his own acknowledgment ſo openly, and before ſo many perſons, he might not at other times be received to ſay the contrary. And thereupon the ſaid Commons brought in Parliament *John Botild*, and *Will. Cooper* of *Leiwſtoft*, and two others, that affirmed they had payed to the ſaid *William Ellis* by the ſaid Merchant of *Scotland*, the ſaid 33 *l.* for full Information of the matter aforeſaid, which *John* and *William Cooper* being thereof examined in Parliament, acknowledged that they were obliged to our Lord the King, and to the ſaid *William Ellis*, by their Obligations, or Letters obligatory in the ſaid 33 pounds, together with the ſaid *Scot*, which was their Hoſt, and payed at a certain day for the ſaid Subſidy of ſix pence the pound,

due of all the Merchandiſes in the ſaid Ship; and the truth was that the ſaid *Scot* diſcharged nothing of all the matters aforeſaid, at the day of payment, but that they payed to the ſaid *William Ellis* the 33 *l.* and thereupon the ſaid Commons prayed Judgment upon the ſame *William Ellis*, who ſaid, that although that he had received the ſaid 33 *l.* of *John Botild*, and of the other aforeſaid, he received it not but as ſuppoſing the ſame a Gift, and that without condition; and that as often as concerning the ſame he ſhould have a Writ or other Commandment of our Lord the King, he would make deliverance thereof, which otherwiſe he would not do voluntarily. *Item*, afterwards the ſaid *John Botild* and *William Cooper* did put in the Bills in form which followeth. To our thrice doughty Lord the King, and to his Sage Council, ſheweth *John Botild* of *Lenniſtoft*, that the Monday next after the *Aſcenſion* of our Lord, in the year of the Reign of our Lord the King that now is, the nine and fortieth, that there was chaſed by Tempeſt in *Kirke la Rode*, one Cock-boat of *Gotham* in *Pruſe*, whereof the Maſters Name was *Henry Luce*, charged with divers Merchandiſes of the Merchants of *Pruſe*, that is to ſay, Freeze, and other Merchandiſes. And the ſame day *William Savage*, Clerk and Servant to *William Ellis*, by Commandment of the ſaid *William*

am Ellis, took of the ſaid Cock-boat for the Merchandizes (neither diſcharged the ſame from paying cuſtom then) 17 Nobles and a laſt of Leather, the price of the laſt 10*l.* 16 s. at *Lewiſtoft* before the boat went out of *Kirke la Rode*, to the great danger of the ſaid Merchants. And becauſe that the ſaid *William Ellis* knew that *Wil. Cooper* would come to this Parliament, and ſhew this grievance, and others in aid of the Merchants, and alſo ſet forth how the great Charter *Huc. Ang.* might be amended in aid of the whole Realm, the ſaid *Wil.* by his falſe ſuggeſtion, cauſed the ſaid *Wil. Cooper* to be arreſted and caſt in priſon, for the ſpace of 3 weeks; May it pleaſe ou· thrice doughty L. the King and his ſage Councel, to make remedy thereof in work of charity. Which Bills paſſed in abſence of the ſaid *Wil. Ellis*, he ſaith, that as to the ſaid 17 Nobles and Skins, called leather, he could not ſwear for him, nor for any of the ſaid Merchants of *Pruſe*, nor other whatſoever, and the ſaid *John Botild* and *Wil. Cooper* affirming the contrary; at laſt it was ſaid by the Lords in Parliament, that thoſe Bills touching the entry of the leather, were now in the King's Bench for Tryal. And as to the ſaid Impriſonment, the ſaid *William Ellis* ſaith, for that he was warned in comming to *London* by many ſufficient perſons, that the ſaid *John* and *Wil. Cooper*, with

36 other persons of *Lewist.* did lie in wait for the person of the said *Wil. Ellis* at *Wickham* Market in *Suffolk*, and going there in the high way of *Gerneith* from *London*, at such time as the said *W.* was going towards *London*, carrying with him a great sum of the King's Money of the Customes and Subsidies aforesaid, and for that the said *W. Ellis* is awarded to prison to make fine and ransom to our said Lord the King, and it is awarded to either of the said *John* and *William Cooper*, twenty pounds for their dammages, and dispences during their said Imprisonment had and suffered. Also it is awarded, that the said Commissions be made to sufficient Gentlemen, to enquire of *William Ellis*, and of all others Deputies of the said *Richard Lyons* throughout the Realm.

Parl. Anno 1 R. 2. *n.* 32. & 33.

ITem, *William Fitz-Hugh* Goldsmith of *London* preferred his Bill in Parliament, in form as followeth: To our thrice excellent and thrice noble Lord the King, and to his thrice Honourable and thrice sage Councel, shewen the poor Commons of the mystery and Company of Goldsmiths in the City of *London*: that *John Chichester*, *John Botesham*, and many other Gentlemen, and rich Goldsmiths of that mystery in the same City, by their

their compaſſing and ſubtil deviſing deceitfully have cauſed many of the ſaid Company to enſeal ſeverally divers obligations, and thoſe who refuſed ſo to do, were taken and impriſoned and in danger of death by many grievous threatnings of the ſaid Goldſmiths, who had ſealed ſeverally divers obligations, as their poor companions had done before, to cauſe that the ſaid poor Goldſmiths ſhould not buy nor ſell to any Merchant, Cutler, Jeweller, Uphoulſter, nor to any other Foreigner nor Denizen, any goods of their working, except they ſold the ſame at a treble value, and that none of them ſhould carry gilt, nor any other thing of Gold or Silver to any Lady or other perſon to make profit thereof, and if they did, that the pain compriſed in the ſaid Obligations ſhould incur upon them, as before the Mayor, Sheriff, and Aldermen of the ſaid City, as by the confeſſions of the ſaid rich Goldſmiths it was proved, whereupon is was unreaſonably debated, ſo that it was put by good mediation and advice to the ſaid Mayor, and many of the Aldermen of the City: the ſaid rich and poor Goldſmiths put themſelves in Arbitrement of three good Men, for a final accord of all the debates and quarrels between themſelves, which Arbitrators aſſented upon certain points rehearſed to the parties aforeſaid, and ordained the ſame points

to

to be affirmed and inrolled in the Parliament for ever, and thereupon the said parties were released. But notwithstanding this Agreement, the said rich Goldsmiths would not assent, nor suffer that the said points be inrolled and holden as the said Arbitrators adjudged: And furthermore by their procurement many mischiefs do from day to day arise to the wrong of the said poor Commoners, so far as they are like to be undone (which God defend) and have purchased likewise a new Charter against the said agreement, to the great decay and hurt of the said poor Commons: may it please you (thrice gracious Lords) to ordain and command that the said accord be affirmed, and holden finally for good, and that the said Charter and other things, tending to the prejudice and loss of the said poor Goldsmiths, be made void for God's sake and in the work of Charity. And thereupon the said *John Chichester* and *John Botesham*, and many other Goldsmiths of *London* came in Parliament, and having heard the said Bill, it was forthwith demanded of the said *William Fitz-Hugh*, if he would maintain the said Bill and find pledge to do, and answer that which the Law demandeth, who said that he would do so, but afterwards he could not bring in his surety, nor pledge to answer the said Bill, so was the said

William

William Fitz-Hugh commanded to the Tower by the award of the Lords in Parliament.

Ibidem Anno 41.

ITem the said 24th day of *December*, during yet this present Parliament, *Alice Pierce* was caused to come in the same Parliament before the *Prelates* and Lords, for to answer certain matters, which by Letters should be surmised against her in the King's Name, and thereupon by commandment of the *Prelates* and Lords of the said Parliament, Master *Richard Scroop* Treasurer, Steward of the House of our Lord the King rehearsed in Parliament, in the presence of the said *Alice*, an Ordinance made in Parliament holden at *Westminster*, the Monday next after the feast of Saint *George*, the year of the reign of the King, Uncle to our Lord the King that now is, the 50. in these words; For that complaint is made to the King, that many women have pursued in the Courts of the King, divers businesses and quarrels by way of maintenance, and to have a share: which thing displeaseth the King to defend, and that henceforth no woman shall do so; and more especially *Alice Pierce*, upon pain of whatsoever the said *Alice* may forfeit, and to be banished out of the Realm, and after this *Alice Pierce.*

this rehearsal made the said Steward surmised to the said *Alice*; that it seemed to the Lords of Parliament that she had incurred the pain comprised in the said Ordinance, and had forfeited against the said Ordinances, in certain points, and more especially in two, *viz.* that she stayed Master *Nicholas Dagworth* Chancellour, when he was ordained by the Councel of the late King to go into *Ireland*, for certain urgent businesses which should have been profitable to our late King, and his Realm; the said *Alice* after the said Ordinance made as aforesaid, perswaded the said King in his Court at *Havering*, that at her singular pursuit and procurement, the said *Nicholas* was countermanded, and his voyage stayed from all that Island, to the great dammage of our said late King and his Realm.

Item, That whereas *Richard Lions* for misprisions whereof he was convicted at the said Parliament, holden the said 50. year of our late King *Edward*, submitted himself in the Parliament into the favour of the said King (that is to say) his Body, all his Lands and Tenements, and he gave some of them to the Earl of *Cambridge*, and some of them to Master *Thomas Woodstock* now Earl of *Buckingham*, for term of their lives: the which our late King after having pitty of the said *Richard*, was willing by

by the assent of his Councel to shew him favour, and to pardon him the Imprisonment of his Body, and to restore him to certain of his Lands, Goods, and chattels aforesaid, which pardon seemed to our late King and his Councel to be a grace sufficient; notwithstanding the said *Alice* so perswaded the said late King in his Court at *Sheen*, that by the singular pursuit, and procurement of the said *Alice*, our late King *Edward* granted to the said *Richard*, all his Lands, Goods, Tenements and chattels aforesaid, together with the said Tenements which he had given to the said Earls for term of their lives as before said, and among the same pardoned the said *Richard* 300 l. of certain Arrearages due by the said *Richard* in the Exchequer, and also granted him a thousand Marks of his Treasure to be received of the said Lady, which pursuit and procurement are contrary to the Ordinance aforesaid. And the said Steward demanded of the said *Alice* how she would excuse her self of those Articles? which *Alice* did answer and say, that she was not guilty of those Articles, and that she is ready to shew and prove by the Testimony of the said Master *John Ipre*, then Steward of the said King *Edward*, and *William Street*, then Controller of his House, *Allen Buxal* Knight, and *Nicholas Carrein* Keeper of the privy Seal of the said King,

and

and others that did then belong to the ſaid King, and afterwards from him to the time ſuppoſed, that ſhe committed forfeiture, and that they can diſcover the truth. And thereupon day is given unto the ſaid *Alice* until Wedneſday next, by the *Prelates* and Lords of the Parliament, and it was ordained and aſſented that thoſe Articles ſhall be tryed by witneſſes and by enqueſt of thoſe that were of the houſhold of the late King *Edward*, whereby the truth may better be known, and thereupon were certain perſons examined before the Earl of *March*, the Earl of *Arundel*, the Duke of *Lancaſter*, the Earl of *Cambridge*, and the Earl of *Warwick*; that is to ſay, firſt Maſter *Roger Beauchamp*, late Chamberlain of the ſaid King *Edward*, ſworn upon the holy Evangeliſts, and diligently examined touching the Countermand of Maſter *Nicholas Dagworth*, and upon the other Article concerning the ſaid King's pardon, and favour to *Richard Lions*, ſaith upon his Oath, that in preſence of the Lady *Alice Pierce* a Bill was delivered to him, which Bill he took, and after he had underſtood that the ſame contained the calling back of Maſter *Nicholas Dagworth* from *Ireland*, for that he was an Enemy to Maſter *William Windſor*, to that which the Bill ſuppoſed he anſwered, that he durſt not prefer it to the King, for that the Coun-

Counsel had ordained the contrary, and the said *Alice* requested him and said that he might safely deliver it to the King, and presently the King demanded of what matter they discoursed, and the said Master *Roger* answered, of a Bill that doth contain such business; and forthwith when the King had understood the Bill, he answered that the Petition was reasonable; and when Master *Roger* replyed the Council had ordained to the contrary, the King answered that he himself was agreeing, and that yet it seemed the Bill was reasonable; and commanded him that the said Master *Nicholas* be caused to be called back, which was likewise done, but what Day or Month it was he remembreth not: and as to the matter of *Richard Lions*, the said Mr. *Roger* saith, that he was Chamberlain but an hour, and so knoweth nothing more than he hath said.

Item, Master *Lanc.* diligently examined before the Committees, saith, that he came one day to *Havering*, and found the Lady *Alice Pierce* there, and forthwith Master *Roger Beauchampe* shewed him a Bill, and after the King understood the matter, he said thus, that it seemed not reason, that one Enemy should be judge of another, and the said Duke answered that he was come between them, but it was so that the said Master *Nicholas* was sent for the profit of the

Land, and of all the Realm; and therefore it was ordained before the King, that the ſaid Maſter *Nicholas* and Maſter *William* do come before the Council, and if the ſaid Maſter *William* could prove any cauſe for the Enmity between them, that then the ſaid Maſter *Nicholas* ſhall not go, if he well can prove ſuch Enmity; otherwiſe the Ordinance of the Council made in that behalf, ſhall ſtand in force: to which thing the King did well aſſent for that time, but forthwith the King was aſſailed in his Chamber by the ſaid Lady *Alice*, and there came in the ſaid Duke and prayed the King that he would not ſuffer in any ſort, that the ſaid Mr. *Nicholas* be called back, who anſwered, that it ſhould be no otherwiſe then it was afore ordained before the King; and when he came in that behalf to crave a teſtimonial favour, he could not obtain it: and the next Morning when the ſaid Duke did his Obeyſance to the King in his Bed, the King himſelf commanded upon his bleſſing that he ſuffer not in any manner that the ſaid Maſter *Nicholas* go into *Ireland*, the Ordinance thereof made the day before to the contrary notwithſtanding; and likewiſe the ſaid Maſter *Nicholas* was countermanded. And as to the Article of *Richard Lions*, he ſaith in his Conſcience, that the ſaid *Alice* was principal promotrix of the ſaid buſineſs; but he was not preſent when it was done. *Item*,

Item, Maſter *Philip de Bath* ſworn, and diligently examined, ſaith, as to the Article of Maſter *Nicholas Dagworth*, that he heard not the ſaid Dame *Alice* ſpeak to the King of the ſame matter, but he heard in the Kings houſe the ſaid Lady *Alice* make a great murmur and ſay, that it was no Reaſon nor Law, that the ſaid Maſter *Nicholas*, who was an Enemy to the aforeſaid Maſter *William*, ſhould go into *Ireland* to enquire, and do Juſtice againſt him, and more he knows not how to ſay in this matter. But as to the Article of the ſaid *Richard*, he ſaith, that he was one day at *Sheene* when the ſaid *Richard* was brought before the King, and that he was called into the Kings Chamber to hear thoſe things that were to be done, and when he underſtood a little of the matter, he would not ſtay in the Chamber; and further he ſaith, that there were then in the Kings Chamber, the ſaid Lady *Alice*, *Nicholas Currein*, Maſter *Allen Buxall*, *Walter Walſham*, and many others; and ſaith that ſhe was in the Court, and that the ſaid Lady *Alice* was an Aider and Friend in the buſineſs.

Item, *Nicholas Currein* ſworn as aforeſaid; and diligently examined, ſaith, that he was commanded by the King to come to *Sheer*, and there he found *Rich. Lions*; which *Richard* and *Nicholas* were commanded to come before the King to his Bed, and there they

found the Lady *Alice Pierce* sitting at the side of the bed; and there it was shewn that the King would pardon the said 300 *l.* to which he was yet bound to the King, as of the Arrerages of his Accompt in the Exchequor; and also the King would give to the said *Richard* a 1000 Marks of his Treasure, and further would make full Restitution of the Tenements which had been given to his Sons, of *Cambridge* and *Woodstock*, as before said. And thereupon the King commanded the said *Nicholas* to say from him his Pleasure to his said Sons, but he saith that he remembreth not if that matter were shewn at that time before the King, by relation of any other Person, or by the Bill of the said *Richard* there read, or otherwise by the said *Richard* himself; the said *Nicholas* remembers himself very well, that he requested to come before the King, who caused to come from behind the Curtains Master *Allen Buxall*, and other Knights and Bishops which then were there, to testifie that which the King had said to the said *Nicholas* in the said Commandments, and so it was done; and all the Commandments of the King were rehearsed in presence of all those men.

And as to the matter of Master *Nicholas Dagworth*, he saith, that he knows nothing but that Master *Roger Beauchampe* sent him to countermand the said Master *Nicholas*.

Item,

Item, Master *Allen Buxall* sworn in like manner, and diligently examined, saith, that one day at *Sheen* after the last Parliament he was called to the King, where he found the Lady *Alice Pierce*, *Nicholas Currein*, and many other Knights and Esquires, which came with him, and there it was rehearsed by the said *Nicholas*, how the King had shewed favour to *Richard Lions* of his Tenements, which were holden by the Earl of *Cambridge*, and Master *Thomas* of *Woodstock*, and had given him a 1000. Marks of his Treasury: And as to that which was done, the said Dame *Alice Pierce* prayed the same Mr. *Allen*, that he would declare to the said Earls the King's will, and his chargings upon the blessing of their father, to cease to extend the Tenements of Master *Allen*, and that that they do it volantarily if the King commanded them to do so. And forthwith at the instance of the said *Alice* the King commanded, and it was also done. And as to the Article of Master *Nicholas Dagworth*, he saith, that he knoweth nothing, but that he heard the said Lady *Alice* say many times, that it is not reason nor Law that the said Master *Nicholas* who was Enemy to Master *William Winsor*, should be sent into *Ireland* to make Inquisition of him or against him.

Item, *William Street* late Controler of the King's houſe, ſworn in like manner, and diligently examined, ſaith, that he was one day at *Havering*, when *William* of *York* ſpake to the King, of *William Windſor*, in preſence of the Lady *Alice Pierce* for to diſturb the paſſage of Maſter *Nicholas*, and the ſaid Lady *Alice* ſaid, that it was not reaſon that one Enemy ſhould be Judge of another. And moreover the ſaid *William Street* ſaith in his conſcience, that the ſaid Lady *Alice* was principal and motrix of the ſaid cauſe, as he verily believes. And as to the Article of *Richard Lions* he knows nothing before it was all finiſhed.

Item, *John Beveril* ſworn in like manner, and dilligently examined, ſaith, that he heard not at any time the ſaid Lady *Alice* ſpeak to the King concerning neither the one Article nor the other, and that ſhe kept her ſelf well from him, that ſhe ſpake nothing in his preſence, but he thinks in his conſcience that ſhe was the promotrix in the ſaid buſineſs, for he knows no other which could have followed that matter, and notwithſtanding they were cauſed to come before the ſaid Duke, and the ſaid Earls, Maſter *Robert Beauchamp*, Maſter *Allen Buxal*, Maſter *John Burle*, Maſter *Phillip de la Page*, Maſter *John Foxley*,

Foxley, and *Thomas Barre*, Knight, *Nicholas Currein*, *John Beauchampe* of *Holt*, *John Beverly*, *George Felborough*, *John Salisbury*, *William Street*, *Pierce Cornwall*, *Thomas Lurden*, *Lolvin Legat* Esquires of the House of the said late King *Edward*: which do say upon their Oaths, that the said *Alice* was principal promotrix to the said King, at his Court at *Havering*, about the feast of *All Saints*, in the fiftieth year of his Reign, concerning that Article, touching the revocation of the said *Nicholas Dagworth*, and for that she was committed.

Item, as to the Article touching *Richard Lions*, they know well that the said *Alice* was well willing, Councelling and aiding to the said business prevailing with the said King at *Sheen* in the Month of *May* last past, and for that she is found guilty in the same impeachment, and the Lords of Parliament that were at Parliament when the said Ordinance was made, remember, that their intention was witnessed, and bearing the force of a Statute, and by the general words (whatsoever the said *Alice* may forfeit) extend as well to the forfeiture of Lands and Tenements, as Goods and Chattels, and all other Possessions, considering the dammages and villanies by her done to the King and to the Realm, for that it was in effect to re-

ſtrain, and puniſh the ſaid Lady *Alice* only (wherefore it is awarded in this preſent Parliament, that the ſaid Ordinance have the force and effect according to the intent aforeſaid; that ſhe be baniſhed out of the Realm, and her Lands and Chattels, Tenements and Poſſeſſions, as well in demean, as in reverſion be forfeited to the King, and ſeiſed into his hand; and it is the Intention of the King, and of the Lords, and of the Ordinances aſſented to in the ſame Parliament, that all the Lands whereof ſhe hath taken the profit, or bargained to her own profit be forfeited, becauſe of the fraud which may be preſumed in which ſhe is moſt abounding; for which cauſe the ſame ſhall be forfeited to the King, and ſeiſed at the other Lands. And it is the Intention of the King and of the Lords, that this Ordinance and award made by the King for ſuch odious things in this eſpecial caſe, which may extend to a thouſand other perſons, ſhall in no other caſe but this, be taken in Example. Likewiſe it is ordained and aſſented, that notwithſtanding the ſaid forfeiture, if ſhe purchaſed any Lands or poſſeſſions by force or dures, be it by fine or by deed, in *pais* or deed inrolled, or otherwiſe, that the purchaſe be holden for nothing; and that the parties which per-

perceive themſelves agrieved, may have remedy by proceſs in Chancery; and by advice of the GRANDEES of the Councel, right ſhall be done to the parties, and reſtitution made according the the caſe demanded; ſo that the purchaſes made *bona fide* be not made void nor diſanulled by any manner of way. *Et iſtudrotulum ſic factum; & ſcriptum tradidit & liberavit Edmundus Bradwel Clericus de Corona*, &c. *hoc in Parliamento aſſig. Clerico. Parliamenti.*

Ex Rot. Parliam. Anno 7. R. 2. N. 11.

Cavendiſh againſt *Pool*, Chancellor.

ITem, It is to be underſtood that the 23*th* day of *May*, there was preſent one *John Cavendiſh* of *London*, Priſoner in this Parliament before the Commons of *England*, in their Aſſembly in preſence of ſome *Prelates*, and Lords Temporal there being, and afterwards before all the *Prelates* and Lords being in this Parliament; and prayed the Lords, that for Gods ſake they would haſten for the peace and ſafety of his Life, that he may have ſufficient ſurety of the peace of thoſe whereof he complained, and eſpecially demanded ſurety of the Peace of Maſter *Nicholas de la Pool*, Chancellor of *ENGLAND*, and this Requeſt to him was granted; and thereupon by Com-

Commandment of the LORDS aforesaid, the said Master *Nicholas* there present, found sureties to be peaceable towards the said *John*; that is to say, the Earl of *Stafford*, and the Earl of *Salisbury*, and the said *John* rehearsed how at the last Parliament he had made pursuit by one *Savil* against *Gibbon*, *Mansfield*, *Robert de Parry*: *John Hankins*, and *WILLIAM HORSMAN* to have Restitution of certain Goods, and Merchandises of great value left upon the Sea, in default of the said *Gibbon*, *Robert*, *John*, and *William*, at the time when he had undertook the safeguard of the Sea; and of the Merchandises passing and coming from Sea, for the time against all Enemies out of the Power Royal, which Bill was indorsed in the said Parliament he confessed, and acknowledged in the *Chancery*, for to discontinue and determine the matter, by Composition, according to Law and Reason.

And further the said *John* saith, That he being a Fishmonger, hath preferred at the same Parliament his Bill, for that a Cerk, and Familiar of the Chancellor, whose Name was *John Otler*, undertook that the said Fishmonger should the better have good help in his Case of the said Chancellor, before whom his business depended, who was to do Justice to

High

High and Low; which Clerk demanded Copies of his Bills, and demeaned the whole buſineſs that he delivered to him; which when he had viewed and underſtood, he promiſed that for forty pounds to the uſe of his ſaid Lord, and four pounds to his own proper uſe, he ſhould have his buſineſs well and graciouſly diſpatched by his Lord without difficulty; and upon this promiſe the ſaid *John Cavendiſh* was well agreed, and granted to pay him the ſaid forty four pound in manner as he ſhould demand the ſame; but for that he ſaid he had not the Sum ready in his hand to pay, he obliged himſelf voluntarily to make payment well and lawfully at a certain day, and ſo it was done, and afterwards the ſaid Fiſhmonger delivered to the Clerk certain quantity of Herring, Sturgeon, and other Fiſh, to the value of nine or ten Marks, to the uſe and behoof of the ſaid Chancellor, in part of payment of the forty pound aforeſaid; and three Ells of Scarlet, which coſt him two and thirty Shillings, he delivered to the ſaid Clerk in part of payment of the ſaid forty pound which he promiſed. And further the ſaid *Cavendiſh* ſaith, that although he had done ſo much, and promiſed to give more to one Perſon and another always, yet he found not lon

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Friendſhip, Aid, Favour, nor Succor in effect, in the Perſon of the ſaid Chancellor, in the ſaid Suit, for all his Coſt; and alſo he ſaith, that a good part of all ſorts came with him to the Houſe of the ſaid Chancellor, to diſcourſe of his matter, where he found there his Adverſaries before him, where he encountred them in preſence of the ſaid Chancellor: but if the ſaid Chancellor be to be puniſhed for commiting of this Affair, or no, he knoweth not, God knows; but he ſaith, that true it is, that a certain day paſt, the ſaid Chancellor cauſed him to be payed for his Fiſhes, and that he cancelled the Obligation, and that the ſame was cancelled in Bounty and Conſcience; or otherwiſe to ſhun a Slander and Reproach in the Caſe, he knows not now to ſay; but ſaith for certain, that for the three Ells of Scarlet he was not yet paid; and thereupon the ſaid Chancellor firſt of all before the LORDS and COMMONS anſwereth and ſaith, That in this Affair, and of all this matter he is innocent in every degree; and firſt of all as to that that is ſurmiſed of him by the Accuſation, he now ſaith, That the ſaid Fiſhmonger had not been delayed, nor is yet delayed by the ſaid Chancellor, and that Right and Juſtice is done to him in the

ſaid

ſaid Suit, and that the Accuſation contains no Truth. And the ſaid Chancellor voucheth to witneſs all the Judges, and Serjeants of the Realm, who were preſent in the Chancery many times when the ſaid Matter was pleaded between the Parties; which Suit is pleaded to iſſue, whereof part lieth in Judgment, and part remaineth untried; ſo that nothing now remaineth to do, but to render Judgment there of what remaineth in Judgment and Traverſes thereof, have been put in for difficulty, and for other cauſe; and that it is not Truth of the ſaid Chancellor, that the Fiſhmonger hath now ſaid, that he could not have Juſtice, and that he is unjuſtly delayed.

And as to the remnant of the Accuſation now made, the ſaid Chancellor ſweareth by the SACRAMENT of JESUS CHKIST that he is utterly innocent, and more thereof did never come into his Cognizance, but in manner as he hath ſaid, which is thus, and ſaith, That of late he had Speech with the Officers of his Houſe to know the Eſtate thereof, and for ordinary payment of thoſe to whom for the Diſpences of his ſaid Houſe he was a Debtor; and there firſt of all, and before his Officers he demanded how ſuch a quantity of Herring and Sturgeon was

brought

brought into his ſaid Houſe, and not by way of bargained-for Proviſion, and in what manner the ſame was ſpent in his Houſe? whereat he marvelled, becauſe he knew not the ſaid Fiſh-monger, and therewithal he reckoned with his ſaid Officers how ſuch an Obligation was alſo made by the ſaid Fiſh-monger, who had a general Suit depending before him, and as ſoon as the heads of this matter was underſtood by him, he was much grieved, and in paſſion did curſe and ſwear to his ſaid Officers, that he would not eat nor drink within his ſaid Houſe, until the ſaid Fiſh-monger was paid for that which he had ſent into his Houſe aforeſaid, and the Obligation was utterly cancelled and defaced, and thereupon preſently was the ſaid Fiſh-monger at his commandement cauſed to come in preſence of the ſaid Chancellor, in the Chappel within his Houſe, where he ſtayed for the preſent time when he was in *London*, in the ſame Chappel where our Lord Jeſus Chriſts SACRAMENT was continually, he ſwore by the ſame SACRAMENT in preſence of his ſaid Clerk, and of the ſaid Fiſh-monger, that he was never bound to do that which his ſaid Clerk had undertaken, and that he touched nothing of the ſaid Commodities before reckon-

reckoned, nor had knowledge thereof in private or in publick, but by relation of those other Officers in manner aforesaid, and that he was never a partner to the said Covenant made thereof in any manner, nor caused the said Clerk to take the same Obligation, but caused the said Fishmonger to be payed for his Fish aforesaid. And the said Chancellor swore by the SACRAMENT of JESUS CHRIST, that his Excuse now given in, contained full truth, and that he is ready to prove in whatsoever manner it pleaseth our Lord the King, and his Noble Lords of the Realm there present to ordain, and the said Chancellor prayeth to the Lords aforesaid, that they have due consideration to the Estate that he beareth within the Realm by his Office of Chancellor; that it may so please them to ordain him due Remedy and Justice of the said Fish-monger, concerning the Defame and grievous Slander which he had brought upon his Person in Parliament, which is the most high Court of the Realm, and could not accuse the said Chancellor of any thing in his Complaint, but onely the Clerk of the said Lord. And for that the said Fish-monger disclaimeth in part his said Accusation, and so denieth by his own mouth that he had

not

not any bargain with the Perſon of the ſaid Chancellor but with his ſaid Clerk.

And alſo, for that as well the ſaid Clerk as the ſaid Fiſh-monger thereupon examined, acknowledged, that the aforeſaid Obligation was made to the ſaid Clerk onely, and in his Name, without naming the Perſon of the ſaid Chancellor in any part; and that the ſame Clerk upon his Oath made in the caſe, had fully excuſed his Maſter the ſaid *Chancellour*, that he was not knowing of the ſaid Obligation, nor of the Covenant aforeſaid, otherwiſe then before ſet forth.

And for that alſo his ſaid Officers, *Gibbon*, *Robert* and *William*, were perſonally in this Parliament, and examined upon their Allegiances to ſay the Truth of their part in this caſe, anſwered expreſly, that they never gave any thing, nor promiſed to give reward to the ſaid *Chancellor* in private, nor openly by themſelves, or any other perſon in the world: the Lords aforeſaid hold the perſon of the ſaid *Chancellor* for excuſed of whatſoever was compriſed in the Accuſation aforeſaid.

And thereupon the ſaid *Chancellor* prayed again to the Lords there, for that as well the ſaid Fiſh-monger had diſavowed his Accuſation in part, and for that he might every way be excuſed therof for any thing that could appear to the judgment of every diſcreet perſon which

which heareth the ſaid Accuſation, that for thoſe words, which the ſaid Fiſhmonger had put in his Bill, he the ſaid Fiſhmonger might be arreſted until he had found ſufficient ſureties to tender him that which ſhould be adjudged upon this matter, and eſpecially upon the falſe ſlander aforeſaid, which he had drawn upon him. And thereupon it was commanded by the Lords, That as well the ſaid Fiſhmonger, as the ſaid Clerk, ſhould be committed, and ſo they were committed to priſon, and afterwards they were let go at large; that is to ſay, the ſaid Fiſhmonger by the Mainpriſe of *Thomas Spicer* and *Stephen Skinner*, who were obliged body for body to have the ſaid Fiſhmonger from day to day before the Lords aforeſaid, or before whatſoever Judges ſhould be aſſigned: And afterwards, for that the Parliament was drawing to an end, and the Lords were alſo greatly buſied there amongſt other great buſineſſes of the Realm, the ſaid Suit by the Parliament, with all things thereof, was referred to the Judges of the *Kings Bench*, to be heard and determined, as well for our Lord the King as for the Parties.

In Schedula.

Record. fact. apud Westminsterium per Justiciarios, &c.

ET *postea die Martis proximo post Octab. Trin.* viz. 14. *die Junii Anno Regni Domini Regis* R. 2. *post Conquestum* 7. Robertus Tresilian *Capitalis Justiciarius in Banco ipsius Regis*, Robertus Belknap *Capitalis Justiciarius in Communi Banco*, & Roger. Fulthropp *unus Justiciarius in Communi Banco vigore Commissionis Parliamenti dicti Domini Regis, apud Novum Sarum ultimo tento fact. & authoritate ejusdem Commissionis unde in rotulo Parliamenti prædicti mentio facta est specialis, contra quendam* Johannem Cavendish *de* London, Fishmonger, *qui Parliamento prædicto primo*, viz. *coram communitate regni Ang. congregat. & postmodum alia vice coram magnatibus ejusdem regni in eodem Parliamento, de* Michaeli *de* Poole *Milite, Cancellario dicti regni*, & Johanne Ottre *Clerico ipsius Cancellarii de diversis Misprisionibus sibi per eosdem factis, ut asseruit, graviter querelavit; & ipsum Cancellarium per hoc multipliciter accusavit & defamavit* [*processit in hunc modum.*

Imprimis, viz. *ipsum* Johann. Cavendish, *coram iisdem Justiciariis apud* Westminst. *dicto* 14 *die* Junii, *assedentibus sibi tunc ibid.*

Hugone

Hugone Seagrave *Milite, Theſaurario Angl. Magiſtro* Walter *de* Shirlawe, *Cuſtode privati Sigilli,* Johanne Waltham, *Cuſtode Rotulorum Cancellariæ, nec non* Waltero Clopton, Willielmo Richell, *&* Johanne *de* Lockon *ſerviend. ipſius Regis venire fecerunt, qui ibidem comparens & de accuſatione ſua prædict. & fact. & in Rotulo Parliamenti prædicti, plenius irrotuletur, cujus materia, unà cum reſponſionibus per Dominum Cancellarium in eodem Parliamento, adhuc in excuſationem ſuam datis prout continetur in Rotulo prædict. pro majore parte recitat. coram ipſo* Johanne *de* Cavendiſh, *tunc ibidem allocatum fuit per Juſticiarios prædict. & ſuper hoc quæſitum fuit ab eodem, ſi quid haberet pro ſe vel ulterius dicere ſciret, quare ipſe pœnam in Statuto contra hujuſmodi defamatores edito ſubire non debeat maxime cum idem Cancellarius ſe in Parliamento illo excuſavit & omni alio modo poſſibili ſe inde exeuſare eſt paratus, qui quidem* Joh. *ad hoc reſpondebat & dixit quod ipſe nunquam perſonam dicti Cancellarii in Parliam. illo defamavit, nec aliquid ſiniſtrum ſive inhoneſtum de perſona ipſius Cancellarii clam vel palàm in Parliamento ille dixit, vel aliàs affirmavit quovis modo ſed dicit quod quicquid per eum in hac parte fuerit hoc ſolum de præfato* Joh. Ottre *Clerico ipſius Cancellarii in iſta materia factum, & ſententia verborum ſuorum, ac modo & forma eorundem,*

nec non reſponſionibus ipſius Cancellarii & aliorum ex parte ſua hinc inde factis & dictis ibidem debite ponderatis & ulterius habenda reſpondit ad hoc quod ubi præfatus Joh. Cavendiſh *dixit quod Juſticiam coram dicto Domino Cancellario prædict. prout alias prædict. Cancellarius allegavit in eodem Parlia. clare conſtare debeat cuicunq; diſcreto & intelligenti, quod idem* Joh. Cavendiſh *per accuſationem ſuam prædictam ipſum Cancellar. in eodem Parliam. falſe defamavit. Per quod conſideratum eſt quod præfatus* Joh. Cavendiſh *ſuper defamatione illa convincatur, & idem Cancellar. recuperet verſus eum damna ſua, & quod* Joh. Cavendiſh *prædict. committitur priſonæ Domini Regis ibid. moratur, quo uſque tam præfato Cancellario de damnis ſuis prædictis, quam dicto Domino Regi pro fine competenti ſibi inde debito plenarie ſatisfecerit.*

Rotulo Parliamenti, Anno 10. *R.* 2. *M.* 4 & 5.

IN this Parliament all the Commons with one accord, and in one Aſſembly came before the King, Prelates and Lords, in the Parliament-Chamber, complaining grievouſly of *Michael de la Pool* Earl of *Suffolk*, late Chancellor of *England*, being then preſent, and accuſed him by demonſtrance of word of mouth in manner following,

lowing, that is to ſay, Firſt, that the ſaid Earl being Chancellor, and ſworn to do the profit of the King, purchaſed of our Lord the King, Lands, Tenements and Rents to a great value, as appears by the Records and Rolls of the Chancery, againſt his Oath in that behalf, not conſidering the great neceſſity of the King and the Realm. And moreover, becauſe the ſaid Earl was Chancellor in the time of the ſaid purchaſe made, the ſaid Lands and Tenements were extended at a leſſer value than they were worth *per annum* by a great Sum, to the deceiving of our Lord the King.

Item, The ſaid Lords were aſſigned at the laſt Parliament to view and examine the Eſtate of the King and Realm, and to declare their advice how the ſame may be well amended, and put in better Governance and Diſpoſition: And the Examination and Report thereupon made to the King, as well by mouth as in writing, the ſaid late Chancellor ſaid in full Parliament, that the ſaid Advertiſement and Ordinance, ought to be put in due execution, and that it was not done in default of him that was the principal Officer.

Item, Whereas the charge was granted by the Commons in the laſt Parliament,

to be put in certain form, demanded by the Commons, and assented by the King and the Lords, and no otherwise, nor in any other manner than was ordained, many mischiefs were come to the Realm, and it seems true, that they came in default of the said late Chancellor.

Item, It was debated, That whereas one *Tidman* of *Lymberch*, who had to him and his heirs, of the gift of our late King *Edward*, 50 *l. per annum*, of the Custom of *Kingston* upon *Hull*, which the said *Tidman* forfeited to the King; and also the payment of 50 *l.* a year was discontinued for 20 or 30 years; the said late Chancellor knowing thereof, purchased to him and his heirs of the said *Tidman* the said 50 *l.* a year, and the purchase was until the K. ought to enjoy the Profit..

Item, It was debated, whereas the high Master of S. *Anthony* is a Schismatick, and for that cause the King ought to have the Profit which appertaineth to him in the Realm of *England*, the said late Chancellor, who ought to have advanced and procured the Profit of the King, took to farm the said Profit of the King for 20 Marks a year, and there took to his own use goods, and 1000 Marks and more. And that the

the said Master of St. *Anthony* in *England*, which now is, ought to have possession of the said Profit, and he could not have it before he had two persons bound with him by Recognizance in Chancery, and other Instruments, to pay 3000 *l.* yearly to the said late Chancellor, and to *John* his Son 100 *l.* a year for term of their two lives.

Item, That in time of the said late Chancellor there were granted and made divers Charters and Patents of Murthers, Treasons, Felonies, Rasure of Rolls, Sale of Woods, and in especial after the beginning of this Parliament, there were made and ensealed one Charter of certain Franchises granted to the Castle of *Dover*, in the disherison of the Crown, and the Subversion of the Duties of the places and Courts of the King, and of his People.

Item, By the Ordinance that was made in the last *Parliament* for the Town of *Gaunt*, that ten thousand Marks ought to be gathered, and for default of such collection, there ought to be forfeited 3000 Marks, that by default and negligence therein of the said late Chancellor, the said Town was lost, and forthwith the said 10000 Marks paid, and the said 3000 Marks lost by default as aforesaid. Of all which Articles

the said Commons demand Judgment of *Parliament*: Whereunto the said E. made his Answer in manner which followeth.

First, the said Earl saith to the Lords of *Parliament*, how that he was Chancellor of *England*, and the same time did represent the person of the King in his absence, and demanded if he ought to answer without the presence of the King, for that he was impeached of things done in time that he was Chancellor.

Secondly, the said E. had ordained by the advice of his Council, that Master *Richard Scroope* his Brother-in-law, should put in the words of his Answer of the said Impeachments.

Whereunto the Lords replied, That it was honest for him to answer by his own mouth, and thereupon he made protestation that he might add or diminish in his Answer what might be honourable and profitable to him, by advice of his Council. Which thing was granted to him.

And as to the first Article of his Impeachment, that is to say, after that he was Chancellor, that he purchased certain Land of the *King*, &c. the said E. doth answer, &c. After that he was Chancellor, he at no time purchased any Lands nor Tenements of the *King*, nor the *King* gave

to

to him any, until the time that the *King* cauſed him to take the Eſtate of an Earl, but by way of true Exchange, *viz.* That how the ſaid Earl hath had four hundred Marks a year upon the Cuſtom of *Kingſton* upon *Hull* by deſcent of Inheritance, for which it pleaſed the King to aſſign to the ſaid Earl the Lands or Tenements in value; and that he aſſigned and gave part thereof to the Profit of the King as well yearly as becauſe of a Sum of 1000 Marks paid to to the *King* by the ſaid Earl for that cauſe. And further ſaith, that the King at his Progreſs into *Scotland*, pleaſed to make Dukes, Bannerets, and Knights, to the honour of him and his Realm, he pleaſed, without deſire or ſeeking of the ſaid Earl, of his own proper motion, to make him Earl, and commanded him to take the Eſtate of the Earl of *Suffolk*, in place of him that late died; and after that he named the quantity of that which he had to maintain that Eſtate, and further ſaith, that he will aſſign the quantity of the Lands which were belonging to the ſaid Earl of *Suffolk* who laſt died.

Item he ſaith, That the ſaid *Tidman* hath had 50 *l.* a year upon the ancient Cuſtom of *Kingſton* upon *Hull*, to him and his Heirs heritably for ever, whereof King *Edward*,

ward, Unkle of the King that now is, was not paid of a long time, as appears by the Accompts of the Cuſtomers of *Kingſton* upon *Hull*, in the Exchequer of our Lord the King, which *Tidman* for 1000 Marks which he owed to the ſaid Earl, granted to him by his deed a long time ſince the 50 pounds aforeſaid, to have and to hold to the ſaid Earl and his Heirs for ever. And becauſe the ſaid Earl made reſtitution of the Patent of the ſaid *Tidman* to the King, diſcharged of Arrerages, the K. pardoned the ſame purchaſe, without that, that the ſaid Earl then committed or had yet committed any forfeiture or debt againſt the King concerning the ſaid *Tidman*.

Item, As to the other Article in which there is mention of a Charter granted, *&c.* he ſaith that a Warrant came to him for ſo doing; and for that it was a Caſtle, and to the Profit of the King, without evil intent of the ſaid Earl, he paſſed it, not intending then that it was againſt the Laws. And if any man would have declared or informed the ſaid E. that it had been prejudicial to the King or his Laws, he had not enſealed the ſame, but would have repealed it, and that yet thereof no damage is come, *&c.* And as to the other Charters ſpecified in the ſame Article, he paſſed them by

by Warrant, without ill intention or covin of his part in any point. And further he prayeth, that no new way be put upon him, otherwiſe then had been uſed aforetimes upon any Lord or ſuch Officers, underſtanding, that if the Chancellor make a Patent againſt Reaſon or Law, that ſuch Patent ſhall be repealed, and ſuch Judgment reverſed, without inflicting other puniſhment upon ſuch Officer or Judge. And the Commons replying to the Anſwer of the ſaid Earl, concerning the firſt Article, did ſhew to the Lords the copy of his Oath, made when he was created Chancellor, in manner as followeth.

YOU ſhall ſwear, that well and loyally you will ſerve our Lord the King and his people, in the Office of Chancellor, and ſhall do right to all ſorts, poor and rich, according to the Laws and Uſages of the Realm, and lawfully ſhall Counſel the King, and his Counſel ſhall keep. And you ſhall not be privy, nor ſuffer any damage, nor diſheriſon to the K. nor that the Rights of the Crown be taken away, if you can any way hinder it; and if you cannot hinder it, you ſhall make the ſame clearly and expreſly known to the K. together with your Loyal Advice and Counſel; and you ſhall cauſe and purchaſe the profit of the King, by all that lieth in you to do reaſonably, ſo help you God and his holy Goſpel.

And

And praying that the ſame might be read, well underſtood, and the circumſtances of the ſaid Anſwer conſidered, *viz.* That he had not denied that he received of the Kings Gift, after that he was made Earl, being in the Office of the ſaid Chancellor, divers Lands and Tenements, which are certain and ſure of the value of 400 marks a year, which he hath had upon the Cuſtom of *Kingſton* upon *Hull*, which is caſual, and may deceive the King to his damage in that behalf. And how he ſaid, that he had received part of the ſaid Lands and Tenements, ſo taken in exchange, before he was Chancellor. The Commons ſay, that he was then of the Privy Council, and afterwards ſworn, in the creation of the Office of Chancellor, by the aforeſaid Oath, and he in that Office agreeing to the exchanges, takes and receives the remnant of the ſaid Lands and Tenements in full performance of the exchanges, as by his anſwer in Parliament aforeſaid.

And in Anſwer to the ſecond Article, the Commons replying, ſay, That inſomuch as he acknowledgeth in his proper proteſtations, That he repreſented the Eſtate of the King, while he was Officer, and ſo extends his power upon all others: wherefore although default was in others, he

he cannot therefore be excuſed, and eſpecially of that which the King had commanded him to ſpeak in *Parliament*, as he had ſaid, he was the more bound to put the ſaid matter in execution, and to confeſs, what he denied not, the damages are no leſs than they have ſurmiſed: They pray the Judgment of *Parliament*.

And as to the Anſwer of the fourth Article, the Commons replying, ſay, That it ſhall be found of record in the Exchequer, the aforeſaid *Tidman* to be debtor to the King in great Sums, as they ſuppoſe, and for that cauſe, the ſaid rent appertains to the King, notwithſtanding he had otherwiſe forfeited, and ſo the King was deceived; and they pray that the Records may be examined. And further ſay, That one *Neele Hackney* was killed by his Wife and his Servant, and the ſaid *Tidman*, for which Felony, the ſaid Woman and Servant were arraigned, found guilty, and ſuffered the Judgment and execution of the Sentence of the Law, and the ſaid *Tidman* as followeth.

And to the Anſwer of the fifth Article, the Commons prayed again, propoſing the example of one *William Thorpe*, late Chief Juſtice of the *Kings Bench*, ſurmiſing that

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that he took 20 *l.* of one party who had an Officer in plea before him, and for that he sold the Law, for which cause he was judged to death and forfeiture of his Lands and Chattels; and say, insomuch as the said Earl was so Chancellor, and took 100 *l.* *&c.* of the said provision there commanded to be deliver'd out of the Kings hands, of his profits, which he ought to have done according to the command of the K. freely, without taking any thing, it seemeth to them that he hath sold the Law and prayen Judgment.

And to the Answer of the sixth Article, the Commons replying, said, That it appertained to him (as wise as he is) to be well advised and counselled, that he assent not, nor do such a thing which may tend to the disherison of the King, and oppression of his people, as he would avoid the Indurance of the Judgment of *Parliament*.

And thereupon the said Earl replying to the Replication of the Commons, touching his Oath, said, That to take the words of the said Oath without other special Intendment, no Chancellor hereafter will inseale any thing of the Kings grant to any persons, of Lands and Tenements or other Goods,

Goods, without offence of his Oath. But the ſaid Earl ſaith, That it is not compriſed in the ſaid Oath, nor forbidden him to take to himſelf of the Kings Gift, nor to any other perſon.

And for that the Kings Gifts to other perſons in the ſaid voyage, nor of divers other things before, be not impeached nor holden againſt the Oath of the Chancellor, it ſeemeth to him that no more he ought to be impeached for the Gifts given to his perſonal eſtate, ſeeing that in the ſaid Oath it is not forbidden nor reſtrained to him more than to others, and more eſpecially for that the ſaid Eſtate, and the Gifts, given are confirmed by *Parliament*; and further ſaith, that he accepted of his Oath of Chancellor according to his conſcience and power; and for the cauſes before expreſſed, he ſaith, as he ſhall anſwer before God, that he thinks nothing done in the matters aforeſaid againſt his Oath, or underſtanding of his Conſcience, but that the Chancellor may inſeale the Kings Gifts to the Lords for to maintain their Eſtate; or for other reaſonable cauſe by the Kings Warrant, and that he had done nothing againſt his Oath, *&c.* And ſaith, that that which is compriſed in the Oath, that he ſuffer no damage, nor diſheriſon of the King, *&c.* That is to be underſtood of that which is intended,

of

of matters whereof the King hath not cognizance, and that appeareth by the clause compriſed in the Oath, that he ſhall make known to the King clearly, and expreſly: And after that the King is informed in ſuch manner, the Chancellor may do the Kings Commandment without offence of his Oath; and ſaith, that concerning his Eſtate, and what the King gave him, it was expreſly done by the Commandment, knowledge, and will of the King, and ſo not againſt his Oath, and that it may not be intended that he ſhould be impeached concerning this matter.

Item, As to that, that the Commons ſay, that the ſaid Earl hath deceived the King; becauſe he hath taken of the King the Mannor of *Faxfleet* in value 50 pounds; which Mannor was worth 200 *l. per annum*, &c. The ſaid Earl anſwereth, that Maſter *William Morris* hath reported to him that he hath taken of the King the two parts of the ſaid Mannor, with the Rent in *North Dalton*, to ſerve for 7 years for fifty pound a year, and that he hath loſt by the ſaid Farm, in the ſaid time, 100 Marks; and further ſaith, that the ſaid Mannor, with the ten Marks of rent in *Dalton*, all together, are extended (as appears in the Chancery) but at 41 *l.* 9 *s.* 3 *d. ob.* And for that that the ſaid Earl un-

underſtands by the Earl of *Kent*, who hath had the ſaid two parts of the ſaid Mannor, together with the ſaid ten Marks, at the value of 50 Marks, that the intire Mannor could not be above the value of 50 pounds. And further ſaith, that the ſaid Mannor, with the ten Marks, are not worth more. And that under a certain pain ſaith, that whatſoever perſon will ſuſtain the charges of the ſaid Mannor ſufficiently, and pay him for the two parts 50 Marks for aid, and as to the third part, be it what it will, let him give ſecurity to pay for the ſaid Mannor, with the ten Marks of Rent 50 *l. per annum*, that he will ſo leaſe it with all his heart.

Item, As to that Impeachment of the Commons, of 100 pound penſion out of the proviſion of Saint *Anthony*, and that the ſaid Earl ſhould ſell the Laws, and put in an Example of Maſter *William Thorpe*, &c. the ſaid Earl anſwereth, That the caſes are nothing alike, which the parties pleaded before the ſaid Maſter *William Thorpe*, as before their Judge for the Laws of *England*. In which caſe no Judges ought to take reward of any parties pleading before them. But the ſaid proviſion came to him with the help of St. *Pierce* the Pope, and not as a Chancellor or Judge in this caſe, but

as Father and Friend to *John* his Son. At which time a man knew not if the ſaid *John* had obtained it of the Popes favour or no. Alſo faults were found by the counſel of the ſaid Earl in the Bulls of the ſaid proviſion: And from the ſame cauſe the ſaid Proviſor by his Friends of his own accord proffered an annual Penſion of 160 pound for to leave ſuit in the Court of *Rome* by his ſaid Son, and for that he ſhould not impeach the Bulls: that the matters before ſaid, were not done as before a Judge, but by way of compoſition, as may be proved by Inſtrument, and by Witneſſes in this Town, and ſo this matter touched not the Laws of *England*; and always the ſaid Earl intended not but that he ſhould be holden to anſwer to the party in this caſe. And thereupon, after the anſwers of the ſaid Earl given to the Accuſations of the ſaid Commons, and the replications to them made of one part, and of another, the ſaid Earl, at the requeſt of the ſaid Commons, for the greatneſſes of the defaults ſo of him furmiſed, was arreſted by Commandment of the King and Commons, in ward of the Conſtable of *England*, and afterwards let at Liberty upon Bail. And for that the ſaid Earl alledged not in his anſwer that he obſerved the effect of his Oath, in that he ſwore that he would not know

know, nor ſuffer Damage, nor Diſheriſon clearly and expreſly to the King, together with his own lawful Advice and Counſel, and that he ſhould cauſe and purchaſe the Profit of the King by all that he could reaſonably do; and he held the Premiſſes, although he were principal Officer of the King, knowing the Eſtate and neceſſity of the King, and of the Realm, and did take of the King ſuch Lands and Tenements as is ſuppoſed in the Impeachment to him in the ſaid firſt Article ſurmiſed; and although he alleadged in his Anſwer, That the Deeds to him ſo made, were confirmed by full *Parliament*, there is no ſuch accord in the Rolls of *Parliament*, wherefore it is awarded, that all the *Mannors*, *Lands*, *Tenements*, *Rents*, *Services*, *Fees*, *Advouſons*, *Reverſions* and *Profits*, with their *Appurtenances* by him ſo received of the King, be reſeiſed and repriſed into the Kings hand, to have and to hold to our Lord the King, the Lands and Chattels of the ſaid E. from thenceforth, is not the Intention of the King, nor of the *Lords*; nor that this Judgment extend in the Law to cauſe the ſaid E. to loſe his Name and Title of Earl, nor of the twenty Pounds a year, which the King granted him, to take of the Iſſues of the County of *Suffolk*, by the Name and Title aforeſaid.

And moreover, for that the ſaid E. lately denied that he was of the King's Privy-Council when he demanded of the King the ſaid *Exchange*, and had *acknowledg'd* that before the *Exchanges* performed, he was made Chancellor, in which Office he was bound by his Oath made in the form aforeſaid; and he ſo being ſworn to the ſaid Office, took of the King the ſaid 400 Marks of Land, by reaſon of the ſaid Exchange, agreeing to the ſaid Covenant of *Exchange*, which he alſo made before that he was Chancellor, in which Office he was bound by his Oath; and alleadged not in his ſaid Anſwer, that the King gave him Mannors, Lands and Tenements, which are certain, and cannot very eaſily be deſtroyed, nor be countervailed by the aforeſaid 400 Marks annuity, which are leviable and demandable of the Cuſtoms, and alſo as caſual, and in divers caſes there may loſs enſue; it is awarded, that all the Lands and Tenements ſo taken by the ſaid Earl, by the Exchanges aforeſaid, be reſumed into the hands of our Lord the King, to hold to him and his Heirs, in manner as he held the ſame before the Gift or Deed in the ſaid Exchange, in which the Iſſues and Profits aforeſaid after the ſaid Exchange deducted, if the ſaid Iſſues and Profits ſo taken after the Exchanges extend

tend to a greater value than 400 Marks a year, that then the King ſhall have the overplus of the Lands and Chattels of the ſaid Earl from thenceforth hereafter. And it is therefore awarded, That as well the ſaid Mannor of *Flaxfleet*, and the ten Marks of Rents aforeſaid, with the Appurtenances, be repriſed in the King's hand, to hold to him and his Heirs, as he held the ſame before the Gift to the ſaid Earl, ſo as the Charter, the Pardon and Confirmation of the Purchaſe of the ſaid fifty Pounds of Rent be certain in the hands of the King and his Heirs in firm, as it was before the Purchaſe, and it was ſince to the ſaid Earl; and that the Iſſues and Profits received or owing to the uſe of the ſaid Earl, as well of the ſaid Mannor of *Flaxfleet*, and the ten Marks of Rent, as the Iſſues and Profits of the ſaid fifty pound of Rent, which he thereof had taken by reaſon of the Purchaſe aforeſaid, be levied to the uſe of our Lord the King, of the Lands and Chattels of the ſaid Earl from henceforth.

And as to the Article containing the Proviſions of Saint *Anthony*, for that the Maſter of the Houſe of Saint *Anthony*, in which the Profits were taken, as proved in *England*, was a Schiſmatick, and taxed for moving the King and Power of *France*,

and by such repute as then, and yet is taken to be; wherefore all the said Profit ought to appertain to the King, as of a *Schismatick* and Alien, which thing of reason ought to have been made known by the said Earl, before he demanded of the King the said Profit, and he knew expressly that he demanded it for his Son as an Hospital, and alledged not in his Answer, that the King when he granted the Profit, was informed of the matters aforesaid; and also in that, that when he was such an Officer as beforesaid, he sent to the Court of *Rome* to have the same Profit for his Son, of the Collation of the *Pope* (as Benefice of the Holy Church) and to have also the Profit out of the King's hand by the Sea Apostolical (as the Record termeth it) and he denies not that he received of the said Profits four hundred pounds *per annum*, alledging that he rendred to the King the same; and that after the said Earl had made a bargain to have the Provision which he claimed of the said Profit in *England* of the *Pope*, an hundred pound *per annum* of the said Provision to him and his Son *John* for term of their two lives, for to deliver the said Profit to the said Provision; for payment of which 100 *l.* to him and his Son, he took Surety of the Provision by Recognizance and

and Obligations of divers Sums, notwithſtanding that the King had commanded by his Letters to deliver all the Profit aforeſaid out of his hands to the ſaid Proviſion there; where it ſeems, for any thing that yet was ſhewn, that all the ſaid Profit ought to have reſted in the King's hand for the cauſes aforeſaid, at leaſt until it had been diſcuſſed whether the ſaid Profit were the benefit of holy Church grantable by the Pope; or appurtenant to the K. by reaſon of Schiſmatic and Endemnity of the ſaid Maſter; and he alledged not in his Anſwer, that the King was clearly informed of the matters aforeſaid; wherefore it is awarded, that the ſaid four hundred Marks *per annum*, in time that the ſaid profit was ſo granted to him by the King, until the time that he delivered the ſame profit to the ſaid Proviſion, as alſo the ſaid 100 *l.* a year received alſo of the ſaid Proviſion, until the ſame be levied to the uſe of our Lord the King, of his Lands and Chattels, and that all the Profit which ſhould of late appertain to the ſaid Earl by reaſon of the ſaid Recognizance, or of other Obligations and Covenants alſo made in ſurety of Payment. And as alſo to the 1000 Marks which he had alleadged that he payed to the King for the ſaid Exchanges, it is awarded, That the ſaid 1000 Marks

remain in the hands of the King, as part of payment of the Fine and Ranſom that the ſaid Earl ſhall likewiſe make to the King before he be delivered from Priſon.

Ex Rotulo Parliamenti Anno 5. H. 4. N. 11.

ITem, Friday the laſt day of *February*, the Earl of *Northumberland* came before the King and the Lords and Commons of Parliament, and there the Chancellor of *England* ſhewed how on *Tueſday* laſt paſt he had been before the King, the Lords and Commons in the ſame Parliament, and there beſeeched the King, as he had done at other times at his coming before him in *York*, that it would pleaſe our ſaid Lord the King to grant him pardon of thoſe things wherein he hath offended againſt him, not keeping his Laws and Statutes as Legeance demandeth, as by a Petition by him preferred in Parliament, written in *Engliſh*, whereof the Tenor enſueth, may appear more at large.

To my moſt Dreadful and Soveraign Leige-
LORD.

I Your humble Liege, beſeech your Highneſs to have in remembrance my coming to your Highneſs, to have in remembrance

brance my coming to your Worſhipful preſence unto *York* of my free Will by your goodly Letters, where I put me in your Grace, as I that nought have kept your Laws and Statutes, as Legeance asketh, and eſpecially of gathering of Power, and giving of Liveries, as that time I put me in your Grace, and yet do: And I ſent it like to your Highneſs, that all graceleſs ſhould not go. Wherefore I beſeech you that your High Grace be ſeen on me at this time, and of other things which you have examined me of, I have told you plainly, and of all I put me wholly in your Grace.

Which Petition by Commandment of the King, examined by the Juſtices, for to have their Counſel and Advice in this behalf, by Proteſtation made by the ſaid Lords, that the Judgment appertained to them only, and after reading and underſtanding of the ſame Petition before the Lords, as Peers of the Parliament, to whom ſuch Judgments appertain of right to hear and underſtand by the Statutes made in the 25th year of the King that now is, by deliberation of King *Edward*, Couſin of our Lord the King that now is, they adjudge, That thoſe things which the ſaid Earl hath done, contained in the ſaid Petition

tition, are not Treason nor Felony, but only Trespass, for which Trespass he ought to make Fine and Ransom according to the Kings pleasure; wherefore the said Earl most humbly reverenceth our Lord the King, and the said Lords the Peers of Parliament concerning the right Judgment; and further, the said Earl prayed our Lord the King, that in affirmance of those matters he might be purged from all Suspicions, and prayed to be judged *de novo*, in the presence of the King, and of the Lords and Commons in Parliament: the said Earl took his Oath upon the Cross of the Archbishop, to be faithful and loyal Liege-man to our Lord the King, and to his eldest Son, and to the Heirs issuing of his body, and to his Brothers and their Issue successively and inheritably, at which time if the King would command him, he should be ready to shew and declare that which he knows in that behalf, and set forth the truth thereof. And that our Lord the King might not be deceived, the said Earl was present and (charged in his Liberty) the said Earl upon his Oath which he had made upon the said Cross, setteth forth and declareth openly in Parliament that which he knoweth in this matter: upon which Charge to him given, the said Earl saith;

That

That at the day of Tryal of his Life he knew not of the Dukes and Biſhops, and other Lords, any thing that ſounded in derogation of the honourable Eſtate of the K. and of his Royal Majeſty, but that they were, and are to him good and lawful Lieges, and that for ſuch our Lord the King may hold and repute them, and may faithfully put his truſt in them in peril of his life, and by the Oath which he had made as before-ſaid. And moreover, the ſaid Earl of *Northumberland* humbly beſeeched the Lords, and Earls, and Commoners that they will beſeech our Lord the King of his Grace towards him concerning the Fine and Ranſom, and if at any time he do any thing againſt our Lord the King other than Legeancy, that they make no Prayer nor Requeſt for him in whatſoever enſueth thereon, but that they be altogether againſt him. And alſo the ſame *Friday* it was adjudged by the King and the Lords in Parliament, that leave of Battail be made by the ſaid Mr. *Henry* and Mr. *Thomas*, which are holden to be guilty of Treaſon, and that as well for themſelves as for others which ſhall be in their Company at the time of the ſaid Licence: And thoſe to whom the King had granted Favour and Pardon, the King will, that they ſtand firmly in their force and vertue.

Ex

Ex Rotulo Parliamenti Anno 31. *H.* 6. *N.* 2

ITem, the *Friday* the 15. of *February* it w
opened and declared to the Lords Spi
tual and Temporal being in the Parliamen
Chamber, by the Counſel of the Duke
York, that whereas *Thomas Thorpe* the *M*
day the firſt day of *Auguſt*, in the Reign
Henry the Sixth, 30. came to the place
the Biſhop of *Durham*, and then and ther
took and bore away certain Goods a
Cattel of the ſame Dukes againſt his W
and Licenſe, and thereupon the ſaid Du
came and took an Action by Bill in *Mi*
Term laſt paſt, againſt the ſaid *Thomas*
the Court of Exchequer according to t
Priviledge, for ſo much as the ſaid *Thom*
was one of the Court; to which Bill th
ſaid *Thomas* willingly appeared, and ha
divers days to imparle at his requeſt an
deſire, and to the ſaid Bill and Actio
pleaded Not guilty; whereupon there wa
awarded in the ſaid Exchequer a *Venire fe*
cias to the Sheriff of *Middleſex*, return
ble in the ſaid Exchequer; and there by
the *Jury* that paſſed between the Duke
and the ſaid *Thomas*, it was found that the
ſaid *Thomas* was guilty of the ſaid Treſpaſs
contained in the ſaid Bill; and the ſame
Jury aſſeſſed the Damages to the ſaid Duke,
of

the ſaid Treſpaſs, to a 1000 *l.* and for his
oſts 10 *l.* And thereupon Judgment was
en in the ſaid Exchequer, and the ſaid
mas according to the courſe of the Law,
s committed to the *Fleet* for the Fine
onging to the King in that behalf. And
reupon it was prayed humbly on the
alf of the ſaid Duke, that it ſhould like
ir good Lordſhips, conſidering that the
d Treſpaſs was done and committed by
ſaid *Thomas* ſince the beginning of the
ſent Parliament; and alſo the ſaid Bill
d Action were taken and ſcanned, and
proceſs of Law, Judgment given there-
on againſt the ſaid *Thomas* in time of va-
ion of the ſaid Parliament, and not in
liament-time; and alſo that if the ſaid
mas ſhould be relieved by Priviledge of
liament, e're the time that the ſaid
ke be ſatisfied of his ſaid Damages and
ſts, the ſaid Duke ſhould be without
edy in that behalf; That the ſaid *Tho-*
according to the Law, be kept in
d according to the time that he have
y ſatisfied and contented the ſaid Duke
is Damages and Coſts; the ſaid Lords
ritual and Temporal, not intending to
peach or hurt the Liberties and Privi-
ges of them that were come for the
mmons of this Land in this preſent Par-
ment, but equally after the courſe of the

Law

Law to minister Justice, and to have know-
ledge what the Law will weigh in that
behalf, opened and declared to the Judges
the Premises, and asked of them whether
the said *Thomas* ought to be delivered from
Prison by force and vertue of the Privi-
ledges of *Parliament*, or no?

To the which Question the Chief Ju-
stice, in the name of all the Justices, after
some Communication, and mature Delibe-
ration had among them, answered and said,
That they ought not to answer to that
Question, for it hath not been used afore
time that the Judges should in any wise
determine the Priviledges of this High
Court of *Parliament*, for it is so high and
mighty in its nature, that it may make
Law, and that which is Law, it may make
no Law; and the determination and
knowledge of that Priviledge belongs to
the Lords of *Parliament*, and not to the
Judges. But as for the Declaration of Pro-
ceedings in the lower Courts in such Ca-
ses as Writs of *Supersedeas* of Priviledge of
Parliament, to be brought and delivered to
the said Chief Justice; he said, there be
many and divers *Supersedeas* of Priviledge
of *Parliament* brought into the Courts, but
there is no general *Supersedeas* brought to
surcease all Process, but if there should be,
it should seem that this High Court of *Par-*
liament

ament that miniſtreth all Juſtice, ſhould et the *Proceſs* of the Common Law, and ſo it ſhould put off the Party complainant without Remedy; for ſo much as Actions of Common Law be not determined in this High Court of Parliament; and if any perſon that is a Member of this High Court of Parliament, be arreſted in ſuch caſes as be not for Felony or Treaſon, or ſecurity of the Peace, or for Condemnation had before a Parliament, it is uſed that all ſuch Perſons ſhould be releaſed of all ſuch Arreſts, and make an *Attorney*, ſo that they may have their freedom and liberty freely to attend the Parliament.

After which Anſwer and Declaration, it was throughly agreed, aſſented, and concluded by the Lords Spiritual and Temporal, that the ſaid *Thomas* according to the Law, ſhould remain ſtill in Priſon for the Cauſes aboveſaid, the Priviledge of Parliament, or that the ſaid *Thomas* was Speaker of the ſaid Parliament, notwithſtanding; and that the Premiſſes ſhould be opened and declared to them that were commen for the Commons of this Land, and they ſhould be charged and commanded in the King's Name, that they with good haſte and ſpeed proceed to the Election of another Speaker. The which Premiſſes, foraſmuch as they were matters in Law,

Law to minister Justice, and to have know- ledge what the Law will weigh in that behalf, opened and declared to the Judge the Premises, and asked of them whether the said *Thomas* ought to be delivered from Prison by force and vertue of the Priviledges of *Parliament*, or no?

To the which Question the Chief Justice, in the name of all the Justices, after some Communication, and mature Deliberation had among them, answered and said That they ought not to answer to that Question, for it hath not been used afore time that the Judges should in any wise determine the Priviledges of this High Court of *Parliament*, for it is so high and mighty in its nature, that it may make Law, and that which is Law, it may make no Law; and the determination and knowledge of that Priviledge belongs to the Lords of *Parliament*, and not to the Judges. But as for the Declaration of Proceedings in the lower Courts in such Cases as Writs of *Supersedeas* of Priviledge of *Parliament*, to be brought and delivered to the said Chief Justice; he said, there be many and divers *Supersedeas* of Priviledges of *Parliament* brought into the Courts, but there is no general *Supersedeas* brought to surcease all Process, but if there should be it should seem that this High Court of *Parliament*

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Law, by the Commandment of the Lords were opened and declared to the Commons by the mouth of *Walter Moyle* one of the Serjeants at Law, in the presence of the Bishop of *Ely*, in the King's Name, that they should proceed to the Election of another Speaker, with all godly haste and speed; so that the matter for which the K. called this Parliament, took good and effectual conclusion and end.

Item 16. die Febr. tunc proximo sequenti præfati Communes, & quidam de sociis suis declaraverunt Dominis Spiritualibus & Temporalibus in præsenti Parliamento, quòd ipsi per mandatum ex parte Domini Regis pridie sibi injunct. cum omni diligentiâ exequentes eligerunt loco præfat. Thom. Thorp, Thom. Carleton *militem prolocutorem suum humillimè deprecando quatenus præfatus Dominus Rex hujusmodi electionem vellet acceptare.*

Quibus per Dominum Cancellarium Angliæ de mandato dicti Domini Regis, & advisamento Consilii extitit respons. quod quidem Dominus Rex de electione præsenti Thom. Carleton *se benè contentavit injungendo eis quatenus ad expeditionem negotiorum Parliamenti prædicti cum omni diligentiâ procederent.*

Judgments

Judgments upon Writs of Error in PARLIAMENT.

IF erroneous Judgments be given in the Kings Bench, or in the Exchequer-Chamber, upon the Statute of 27 *Eliz. cap.* 18. the party may have his Writ of Error returnable in Parliament; but not upon Judgment given in the Common Pleas, until the ſame be reverſed or affirmed in the Kings Bench, as it was anſwered in Parliament under *Edward* the Third, in the Caſe of the Biſhop of *Norwich*. Upon the Writ of Error the Lord Chief Juſtice of the Kings Bench is to bring in the Record, and a Tranſcript of it into the Parliament, and there leaveth the Tranſcript, but carrieth the Record back; and thereupon the Errors being aſſigned, or as ſome Examples are, before the *Aſſignamus* of the Errors, order is to be given that a *Scire facias* be awarded againſt the Defendant, upon whoſe Appearance and Examination of the Errors by the Lords, the Judgment is either affirmed or reverſed.

Rot. Parl. 30 E. 3. Art. 48. 22 E. 3. fo. 3. *Hadlow's* Caſe, Parl. 1 R. 2. m. 3. Art. 28. 2 R. 2. Art. 19. 20 R. 2. Art. 26. the caſe of the Earl of *Salisbury*. Parl. 15 R. 2. m. 5. Art. 23, & 16. Art. 8, & 17. Art. 13, & 18. the Caſe of the Dean and Chapter of *Lichfield*, and the Prior of *Newport-pannel*, 1 H. 7. fo. 20. *Flowerdew's* Caſe.

After the Record thus brought in, *Clerious Parliamenti habet inde Custodiam & per duos tantum & non per Communitatem assignabitur Seneschallus, qui cum Dominis Spiritualibus ac Temporalibus per Consilium Justiciariorum procedat ad errorem corrigendum.*

In which words it is observed, that the Lords have power to make a Delegation of their Jurisdiction to a person chosen out of themselves, as a Steward to judge for them, as also they did in their Proceedings against *Gomeniz* and *Weston* under *Richard* the Second, when they appointed the Lord *Scroope* for Steward of the Parliament to arraign the Offenders; but this rests at their pleasure, whether they will judge themselves together, or so appoint a Steward.

Memorandum quod Christopherus Wray *miles, capital. Justiciarius de Banco Regis secum adduxit in Par. in camera Parl. inter duos bre. de errore & billa de Regina indorsat. ac rotulat. In quibus continebantur placita & processus in quibus supponebatur error, & ib. reliquit transcript. totius Recordi cum Cler. Parl. & super hoc venit* Richardus Herbert, Joh. Awbrey, Willielmus *Filius*, & Simon Brown, *in propriis personis suis in Parliamento, & statim dixerunt quod in recordo & processu prædict. in redditione Judicii prædict.*

prædict. manifestè est erratum in hoc quod post-quam Judicium prædict. in loquela prædict. versus præfat. Thom. Gomiel *redit. fuit & antequam prædict.* Johannes Hunt *prosecutus fuit & impetravit prædict. primum breve de scire facias versus præfat.* Thom. Rich. Herbert *& cæteros prædictos manucaptores prædict.* Thom. Gomiel *nullum breve de capias ad satisfaciendum pro debito & damnis, prædict. per præfat.* Johannem Hunt. *in Parliamento prædict. prosequendo. Et retornat. fuit versus præfat.* Thom. Gomiel, *ubi per consuetudinem Curiæ dictæ Dominæ Reginæ coram ipsa Regina à tempore contrarii memoria hominum non existit in eadem usitat. & approbat. brev. de Cap. ad satisfaciendum versus eundem* Thom. Gomiel, *pro debito & damnis prædict. Parl. prædict. prosequi & retornari debet antequam aliquid brev. de sci. fac. versus manucaptores prædict. in loquela illa impetrant. seu prosequi deberet licet consuetudo, & forum captionum recognitionum in Curia prædict. usi fuerunt in forma prædict.* viz. *si contigerit eundem* Thomam Gomiel *in Parliamento prædict. convinci, tunc iisdem manucaptores concesserunt & quilibet eorum per se concessit tam prædict. debitum quam omnia damna & castigat.* &c. *præfat.* Joh. Hunt *in ea parte adjudicentur de terris, & catallis, & eorum cujuslibet fieri & ad opus prædict.* Johannis Hunt, *levari si contigerit prædict.* Thom.

Gomiel *debitum & damna illa præfat.* Johannis Hunt *minime ſolvere aut ſe Priſonæ* Mareſcal. *Dominæ Reginæ coram ipſa Regina ea occaſione non reddere,* &c. *Et petiere iidem* Rich. Herbert *& alii prædict. quod Judicium prædict. & Proceſſus ſuper bre. de ſcire fac. proſecut. in Curia Dominæ Reginæ coram ipſa Regina revocetur, adnulletur, & penitus pro nullo habeatur. Et ſuper hoc Domini per conſenſum Juſticiariorum poſt longam & maturam deliberationem cum conſenſu adjudicaverunt quod Judicium prædict. & Proceſſus ſuper bre. de ſcire fac. proſecut. in Curia dict. Domin. Reginæ coram ipſa Domina Regina revocetur, adnulletur, & penitus pro nullo habeatur.*

CHAP. V.

Bills paſſed, and Judgments given without aſſent of the Lords Spiritual.

Rot. Parl. 20 E. 3. n. 33,35,38. See alſo to this purpoſe, 25 E. ſtat. Carl. & 25 E. 3. ſtat. de Proviſion.

UNder *Edward* the Third a Petition of the Commons was thus.

Item, we are not willing to ſuffer that payment be made to Cardinals for their journying into *France,* for to treat out of the Realm of *England.*

The Anſwer is, as to the diſpences of Cardinals, it ſeemeth to all the Baronage, and

and other Sages of the King's Council, that the Commons demanded reason; and for that they are agreed that it shall be so.

The like is there in the two Petitions of the *Commons* against the Clergy carrying Mony to *Rome*, and Cardinals having Benefices here; divers Ordinances against the Church of *Rome* are agreed by the K. the Lay Peers and *Commons*; but all the *Prelates* made Protestation of not assenting, or doing what may be, or turn in prejudice of their Estate or Dignity.

The power and direction for Justices of the Peace, is ordained at the complaint of the Commons by the King, by the assent of the Lords Temporal; and so also divers times without mention of the Lords Spiritual, who indeed under *Edward* the third, protested that they had not to do with matters of keeping the peace.

The Commons exhibit a Petition against Procurations from *Rome*, and Benefices obtained by Letters thence, &c. It is ordained and established by the King, by the advice and assent of the Lords Temporal, that no Benefice is to be had here, but by Gift from the King's Subjects, &c. and if that any do contrary to this Act, he should incur the danger of a *Præmunire* given by the Statute of 27 *E.* 3. *Rot. Par.* 3. *R.* 2. *M.* 3. *N.* 37. *fine* 12.

Rot. 11 *R.* 2. *M.* 2. *Act.* 34. *part.*

A Petition in these words: *Item*, That the Appeals, Pursuits, Accusations, Judgments had and rendred, &c. should be good, notwithstanding the Lords Spiritual, and the Procurators of the Lords Spiritual absented themselves out of Parliament in time of the said Judgments rendred, for salvation of their Estate, as it is contained in a protestation, by which the Lords Spiritual and Procurators were in this present Parliament, &c.

The King granteth it; and the Protestation of the Clergy is entred as followeth.

Forasmuch as certain matters were moved in this present Parliament, touching openly the Crime of the Archbishop of *Canterbury*, and the other Prelates of his Province, who made Protestation in the form and words which follows.

IN *Dei Nomine, Amen, Cum de jure & consuetudine regni Angl. ad Archiep.* Canterbur. *qui pro tempore fuerit, nec non cæteros suos Suffragandos, Confratres & Coeptisf. Abbates & Priores, aliosque Prelatos quoscunq; per Baroniam de Domino Rege tenentes pertinet in Parliamentum Regis quibuscunque, ut pares regni prædicti personaliter interesse ibidemq; de regni negotiis & aliis ibi tractare consuetus, cum cæteris dicti regni paribus & alii*

consu-

conſulere, ordinare, ſtatuere, & definire, ac cætera facere quæ Parliamenti, tempore ibid. incendet. faciend. in quibus omnibus & ſingulis nos Willielmus Cant. *Archiepiſcopus totius Angl. Primas, & Angl. Sedis Legatus, pro nobis noſtriſque Suffraganeis, Coep. & Confratribus, nec non Abbatibus, Prioribus & Prelatis, omnibus ſupradictis poteſtat. & eorum quilibet poteſtatur qui per ſe, vel Procuratorem ſi fuerit modo preſens & publicè & expreſsè quod intendimus & intendi volumus, ac vult eorum quilibet in hoc preſenti Parliamento & aliis ut pares regni prædicti more ſolito intereſſe conſiderare, tractare, ordinare, ſtatuere, & definire, ac cætera exercere cum cæteris jus intereſſendi habentibus eiſdem ſtatu & ordine Juris, & eorum cuilibet in omnibus ſemper ſalvum verum, quia in præſenti Parliamento agitur de nonnullis materiis, in quibus non licet nobis alicui eorum juxta ſacrorum Canonum Inſtituta, quomodo libet perſonaliter intereſſe; eo propter pro nobis & eorum quolibet proteſtamus, & eorum quilibet hic præſens etiam proteſtatur quod non intendimus, nec volumus; ſicuti de jure non poſſumus nec debemus intendi, nec vult aliquis*

It was ordained in a Council held at *Weſtminſter*, that no Clergyman ſhould *Agitare judicium*, and he that did, was to be deprived of his Dignity and Orders, *Roger de Hovenden* in H. 2. pag. 30. 10. & *Gervaſ.*

eorundem in præsenti Parliamento, dum de hujusmodi materiis agitur vel agetur, quomodo libet interesse, sed nos & eorum quemlibet in ea parte penitus absentare in re paritatis nostræ, & cujuslibet eorum interessend. in dicto Parliamento, quoad omnia & singula ibidem exercenda juris, & eorum quilibet statu & ordine in omnibus semper salvo. Ad hoc insuper protestamur, & eorum quilibet protestatur quod propter hujusmodi absentiam non intendimus, nec volumus, nec eorum aliquis intendit, nec vult quod habet processus, & habend. in præsenti Parliamento, super materiis antedictis. In quibus nec possumus, nec debemus, & permittitur interesse quantum ad nos & quemlibet eorum attinet futuris temporibus quomodo libet impugnentur, infirmentur, seu etiam revocentur.

Which Protestation read in full Parliament by the Commandment of the King, and Assent of the Lords Temporal and Commons; in like manner make protestation the Bishop of *Duresme* and *Carliſle*, *mutatis mutandis*. This was upon the occasion of the Appeal of Treason in the same Parliament, commenced by *Thomas* Duke of *Glouceſter*, and others, against *Alexander* Archbishop of *York*, *Robert de Vere* Duke of *Ireland*, and others.

Rot. proceſ. & Judicii prob. 11 *R.* 2.

But

But although they thus abſented themſelves, they made no Proxy at this time to aſſent in their room, as afterwards they agreeded to do in caſes of Judgment of Death. But the firſt uſe of ſuch Proxies is in the 21 *Rich.* the 2. neither at all are ſuch Proxies, or aſſent of the Biſhops. For under *H.* 5. the Earl of *Salisbury* by Petition, in the nature of a Writ of Error, ſhewed that the Attainder of *John* the late Earl, Father to the Petitioner in the ſecond of *H.* the 4. might now be reverſed; and amongſt the Errors aſſigned, one was, that he had been adjudged *ſans aſſent* in Parliament, but it was in Parliament now adjudged that it was no Error. *Rot. Parl.* 2 *H.* 4. & *Rot. Parl.* 2 *H.* 5.

The Archbiſhops of *Cant.* and *York*, for themſelves and their Clergy make Proteſtation not to conſent to any Statute made in this Parliament, *Quatenus ea in reſtrictione poteſtatis Apoſtolicæ, aut in everſione Eccleſiæ dignitatis tendere dignoſcuntur*; which at their requeſt was inrolled in Parliament: yet an Act paſſed at that time, and is publick againſt the Pope's giving of Benefices by way of Proviſion in *England*. *Rot. Parl.* 13 *H.* 2. *Act.* 24. Holetts in *Reg. Courtney*, 332.

In the beginning of Queen *Elizabeth's* Reign, when divers Acts paſſed touching matters of the Church, as Service and Sacraments, and Church-poſſeſſions, &c. the moſt others, is *domin. tam ſpiritualium quam temporalium aſſenſu.* *Dyer* 1 *Eliz. Partis.* yet the Act of this year, as of

Bills

Bills passed *dissentientibus* all the Bishops, as it is especially entred in the Journals with particular enumeration of all their names.

7 H. 8. f. 104. b. vel 184. b. Whereunto may be added that assertion of the Judges in that deliberation had under *Henry* the eighth, touching the power Royal in the Church, as the words were reported, That our Lord the King may well enough hold the Parliament by himself, and all his Temporal Lords, without the Spiritual Lords, &c.

CHAP. VI.

Their appointing Judges out of themselves for Examination of Judgments and delays of other Courts.

Stat. 14 E. 3. cap. 5.] THis is given them by a Statute of *Edward* the third, in these words: Likewise for that many Mischiefs are come, &c. That divers places as well in the Chancery as the Kings Bench, Common-Pleas, and the Exchequer, the Justices assigned, and other Justices to hear and determine the Judgments, wherein have been delays sometimes by difficulty, sometimes by divers opinions of the Judges, and sometimes by other occasions, it is assented, established, and agreed, That of the Com-

Commons beforeſaid, in every Parliament there be one Prelate, two Earls, and two Barons, that ſhall have Commiſſion and Power of the King (which Priviledge is now taken away from the Prelacy by Act of Parliament, *Anno* 17 *Car.*) to hear by Petition to them delivered, the Plaints of all thoſe which complain of ſuch delays, or grievances done to them, and that they have power to cauſe to come before them at *Weſtminſter*, or in any other places where the Parliament ſhall be holden, and the Courts of Records and Proceſſes of ſuch Judgments as are delayed, and ſhall cauſe to come before them the ſame Juſtices, who ſhall be there preſent to hear the cauſe, and their reaſon alſo heard by good advice of them, the Chancellor, three Juſtices of one Bench, and of the other, and others of the King's Council.

And in the ſame Parliament accordingly, the Archbiſhop of *Canterbury*, the Earls of *Arundel* and *Huntington*, and the Lord *Wake*, and the Lord *Baſſet*, were aſſigned to the ſame purpoſe; and although the Juſtices, Chancellor, Treaſurer, Privy-Seal, and others had before taken Oath, &c. yet it was ordained, that thoſe of the Baronage aſſigned, ſhall give them a new Oath, and increaſe and diminiſh the Miniſters of Juſtice, as they ſhall ſee cauſe.

CHAP.

CHAP. VII.

Their Tenants of ancient Tenancies, being discharged of paying the Charges of Knights of the Shire.

Rot. Parl. 28 *E.* 3. *Petit.* 7. THE Commons exhibit a Petition, That whereas the Tenants of the Lords that did hold by Barony, and Summons to the Parliament, might not be discharged of paying towards the Expences of Knights, &c. that the King would declare the certainty of it: But the Answer of it is only, As at other times, &c.

28 *E.* 3. *Petit.* 7. A like Petition and Answer is afterwards under the same King, in a Petition touching the same thing: Under *Richard* the 2. it is supposed that all ought to pay, but those which come in Parliament by

28 *E.* 3. art. 20. Summons, by Writ, and do stay there at their own Charges, &c.

Parl. 15 *R.* 2. art. 37. In a Petition afterwards, it is supposed, that the Tennants of such Lands as were immediately held of the Lords of the Parliament contributed not to those expences; but it is complained against, and the Answer is only, Let it be as at other times, and if that any found himself agrieved, he should have remedy in the Chancery; yet by a Statute which is not in the Rolls of three

three years before, the Tenants of the Lords themſelves ſhall pay for ſuch Lands as of late times they have purchaſed before, being contributary. *Stat. 12 R. 2. c. 12. & H. 4. fol. 1.*

To this belongs that in *Fitzherbert*, the Villains of Lords which come to Parliament ſhall not be therefore contributary to the Expences of the Earls which come to Parliament. And to this purpoſe the Lords may by Letters in their own Names command the Sheriff that he diſtrain not their Villains. *Nat. Brev. fol. 228.*

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28 *E.* 3. art. 20.

Parl. 15 *R.* 2. art. 37. In a Petition afterwards, it is supposed, that the Tennants of such Lands as were immediately held of the Lords of the Parliament contributed not to those expences; but it is complained against, and the Answer is only, Let it be as at other times, and if that any found himself agrieved, he should have remedy in the Chancery; yet by a Statute which is not in the Rolls of three

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THE

The Second kind of their

PRIVILEDGES.

Priviledges, or ſpecial Rights, that concern the Barons that have place in Parliament, as they are every one ſingle in their private Eſtates.

CHAP. I.

Touching the Oath and Proteſtation upon Honour.

17 *Johan. reg. p.* 350. 41 *H.* 1. *Idem pag.* 395. *&* 1315. 3 *H.* 6. *Ro. Parl.* 10. *Rot. Parl.* 7 8 *& H.* 4. *M* 14. *art.* 66. *& H.* 4. *rot. Parl.* 39. *Stat.* 21 *R.* 2. *c.* 3 *&* 4.

ALL Oaths being either promiſſory or aſſentatory, and the firſt being that which binds to a future performance of Truſt.

The ſecond, that which is taken for diſcovery of a paſt or preſent truth.

The firſt kind, they as occaſion requir'd uſed in taking the Oath of all the Barons for the maintenance of the great Charter, and the like was under King *John* and *H.*3. as alſo ſwearing of the Lords in Parliament in the time of *H.* the 6. that they ſhould not take

take parts in the great Controverſie between the Earl Marſhal, and the Earl of *Warwick*, and the oaths of divers Lords appointed for the keeing of the Parliament in 8 & 11 *H.* 4. where yet the Prince was not ſworn, being one of thoſe appointed for the keeping of the ordinances, Becauſe of the highneſs and excellency of his honorable perſon, as the words are in the Roll: So under *H.* the 7. the Lords Spiritual and Temporal ſwore in the Parliament to the Article of taking care for the preſerving of the peace, and under *H.* the 8. to the Bill of Succeſſion; but under *Richard* the Second, the Archbiſhop of *Canterbury* challenged, that neither he nor his predeceſſors were compellable to any Oath, but to the K. and this kind of Oath is frequently taken by ſuch Barons as undertake the great Offices of the Kingdom, and they are all liable to the like by their tenures, by fealty and by Statutes of the Oath of Allegeance; but of theſe kinds of Oaths for the Supremacy they are diſcharged by the firſt Statute that gives it; and in the caſe of Eſſoynes, wherein by the ancient Law, the Eſſoiner was to ſwear that the party Eſſoined ſhould appear at a certain day, all Barons and Baroneſſes were excepted from the Oath, and inſtead of the Oath they put in ſurety, *Ratio vero diverſitatis* (ſaith

Rot. Parl. 1 *H.* 7. *Parl.* 1. *an.* 14. *art.* 15.

Dyer, 15 *H.* 8. *Parl. Stat. Jac.* 14 & 7. *cap.* 6.

Stat. 15 *Eliz. c.* 4. *vel* 1.

Lib. 5. c.de Essoniis, c. 2. & 3, & c. 9. fo. 281. (saith *Bracton*) *talis esse poterit ut videtur quod ita nobiles & dignæ personæ in warrantizatione Essonii non per se jurabant sed per procuratores (scilicet) plegios suos.*

1 Henry 4. fol. 1. 2. 10 E. 4. fo. 6. H. 8. fol. 12. a. Stamford. Assentory Oaths are in Cases of tryal by 12 or 24 witnesses defendants, which proceed by Bill and Answer.

lib. 3. Cap. 1. Cooke, Liber 3. fol. 30. 6.

48 E. 3. fo. 30. 16. lib. Ass. 35 H. 6. 46. 2. 22 E. 3 fo. 18. a. 27 H. 8. fo. 22. Cook lib. 6. fo. 53. Plaintiff's examined in actions of debt brought upon arrearages of accompt in cases of tryal by 12, they are discharged of the Oath that is in cases of tryal of their Peers, in which they answer Guilty or Not guilty, only upon honour; for in other tryals they have no part, but are exempted from being impanelled in Juries, *Nisi eorum Sacramentum adeo sit necessarium quod sine illis veritas inquiri non possit*, and thence was it that some Barons under *Edward* the first, of the Marches of *Wales*, refused to swear before the Justices of Oyer and Terminer upon an Enquiry to be made by them, and others, of certain outrages committed by *Gilbert of Clare*, Earl of *Glocester*, against *Humphrey of Bohun* Earl of *Hereford* and *Sussex*; those Barons were *John de Hastings*, *John Fitz-Raynold*, *Roger de Mortimer*, *Theobald of Weldon*, *John Troger*, and *Jefferey of Camvill*, to whom *dictum est* (as the Roll saith)

Regist. orig. f. 179. b. Fitz. Nat. bre. f. 165. eodem Parl. in arce London 20 E. 1. Coram Rege, Ret. recep. Scaccarii.

ex

ex parte Regis quod pro ſtatu & Jurè Regis, & pro conſervatione dignitatis Coronæ & pacis ſuæ apponit manum ad libitum, ad faciendum id quod eis ex parte injungetur qui omnes unanimiter reſponderent, quod ipſi vel eorum anteceſſores hactenus in hujuſmodi caſu, ad præſtandum Sacramentum aliquid coacti fuerunt.

And afterwards the Oath being offered them, they anſwered every one by themſelves, *quod nihil inde facerent ſine conſideratione parium ſuorum.*

Barons being witneſſes, in Caſes of witneſſes, Examples are, that they give in their Teſtimonies only upon Honour.

IN the Courts of the Delegates in the 3 of *E.* 6, in the proceedings againſt *Gardiner* Biſhop of *Wincheſter*, upon a ſpecial Commiſſion from the King, the then L. Chancellor, and Marquiſs of *Northum.* and the Earl of *Wiltſh.* and *Bedford*, are examined only upon their honor or ſometime upon alleagiance or fidelity to God and the K. and this was upon the ſpecial priviledge of ſuch perſons, for both by the Civil Laws and Common, no teſtimony is taken regularly but upon Oath. *Art. in foro deleg.* 1550.

In Chancery in a Caſe between *Jeffery* and *Jeffery*, and in another between *Bligh-* *Mich.* 12. *Eliz. in ar. Cur. apud Examinar.*

ton and *Dantrey*, *Thomas* Lord *Buckhurſt*, under Queen *Elizabeth*; delivers his teſtimony only upon honour.

Rot. pro. 10 *R.* 2 *&* 10. *in ar. Lond.*

In the Court of Chivalery under *Rich.* the 2, in the great Caſe between Sir *Rich. Scroope* appellant, and Sir *Robert Gravenor* defendant, touching matter of Arms, the Atteſtations taken by Commiſſion from *John of Gaunt*, the Earl of *Darby*, the E. of *Northumberland*, the Duke of *York*, and the Earl of *Arundel*, are for ought appears without oath; for whereas others are ſworn, the Entry of their depoſition is, (Pray and requeſts according to the right of Arms, by the procurator of Maſter *Rich. Scroope*, to teſtifie and ſay, *&c.*)

And amongſt others the Earl of *Devonſhire* was examined by Commiſſion, by *John Kentwood*, who in the return of his Commiſſion and the depoſitions, certifies the Court, that he had ſwore all the witneſſes, there being none of the Nobility but only the Earl in his return, who was not ſworn, but ſpake in the loyalty of his Chivalery.

But in the multitude of witneſſes of this cauſe, divers Barons are ſworn, as the Lord *Poynings*, the Lord *Scales*, the Lord *Gray*, the Lord *Ruthen*, the Lord *Baſſet*. To every of which names in the atteſtations is added (Sworn and Examined) And agreeable

agreeable hereunto is the examination in the Caſe of *Alice Pierce*, in the beginning of *Rich.* the 2. *Rot. Parl.* 1 *R.* 2. *art:* 41.

Barons anſwering to Bills as Defendants.

For Barons anſwering in Chancery as Defendants, are divers preſidents of ſuch their anſwers in the times of *H.* the 7, and *Henry* the eight; but there are none of that time that clears it whether they were ſworn or no; for the anſwers of that time, as alſo of the time following, till about the middle of *Elizabeth* or later, are frequently filed without any *jurat.* to them.

BUt under Queen *Mary*, in a ſuit by *William Armer* againſt *Thomas* Lord *Wentworth*, touching the Inheritance of Copy-holders in *Stepney*, the Defendant preſents in his anſwer with Maſter *Sackford's* hand to it, who was his Council. (And on the upper part of his anſwer where *Jurat.* is ſometimes but rarely in that Age written) theſe words are found, This anſwer is made by Council, and the Defendant not ſworn by order of Court. 20 *R.* 3. & *M.* & *ſæpe in Sacellos.*

Then in Queen *Elizabeths* time the Lord *Dacres* being Plaintiff againſt the Lord *Buckhurſt*, and *Parker*, and *Manwood*, theſe two defendants are ſworn, but not the Lord *Buckhurſt*.

18 *Junii. Mich.* 31 & 32 *Eliz.* And afterwards the Lord *Buckhurſt*'s anſwer is inſcribed *per traditionem Comitiſſæ ſuper honorem ſuum*. So the Counteſs of *Northumberland*: *In virtute honoris ſui agnovit reſponſionem ſuam eſſe veram*: as the entry is upon her anſwer at that time.

32 *Eliz.* And in the Counteſs of *Rutlands* Caſe, where ſhe with Sir *George Shaworth* were Defendants about the latter end of Queen *Elizabeth*, the *Dedimus poteſtatem* was to anſwer upon his Oath *ſuper Evangelia*, as alſo a *Dedimus* towards the end of Queen *Elizabeth*, was directed to *Roger Bromeley*, and *Richard* upon the Bill of complaint of

44 *Eliz.* 7 *Sept. Mr.* 42 & 43 *Eliz.* one *Brooke* againſt *George* Earl of *Huntington*, to take his Oath *ſuper honorem*, &c. About which time alſo the Lord *Eure* put in his anſwer *ſuper honorem* only to the Bill of *John Barnes* and *Robert Talbois*.

In other Courts, as the *Star-Chamber*, and Court of *Wards*, it was queſtioned in Queen *Elizabeths* time, whether Barons being Defendants, ſhould put in their anſwers upon Oath; and in the Court of *Wards* an Order

40 *Eliz. apud Tothill.* was made in the Lord *Mountagues* caſe, that they ſhould, and that ſo the courſe ſhould be henceforth conſtant. The like courſe hath been held of late in the *Star-Chamber*, as alſo in the Eccleſiaſtical proceedings, and

Orde 10. lib. 10 Jac. about the end of Queen *Elizabeths* time in *in Cham. Chancery*; alſo the Lord *Wharton* by a compulſory

pulſory order anſwered there upon Oath. And within theſe few days the Earl of *Shrewsbury* was ordered to anſwer upon Oath to one *Revell*, being Plaintiff there, and divers Noble men have been ſworn to their anſwers in *Chancery* ſince the beginning of the King, and ſome in Queen *Elizabeths* time alſo. Neither is time of Queen *Mary* and *Edward* the ſixth, wholly without example; but the ſum of all ſeem this, that according to the claim of the Barons in 20 *E.* 1. they were not anciently till about the end of Queen *Elizabeth*, or the time of King *James*, and of our preſent Sovereign, compellable to ſwear to their anſwers, for the firſt compulſory order falls in the 33 of *Eliz.* in the Court of *Wards*, but that ſome of them taking no advantage of their priviledges in this caſe, voluntarily took the Oath, and others ſtanding upon their ancient right, put it in only upon honour, as alſo we ſee in that caſe of *Gravenor* and *Scroope*, and *Alice Pierce* under *Richard* the Firſt; for if it were not a ſpecial Priviledge, it will fall out, that in all the Examples, where they were not ſworn, the Judges committed great injuſtice in receiving their anſwers, and depoſitions without Oath, if they had not been ſubject by compulſion to an Oath, no otherwiſe then if a Judge of the Common Law ſhould admit e-

Mic. 4 *Jac.* *Mic. Winton* 5. *Com. Pemb. Paſ.* 6. *Com. Sine. Hil* 7. *Com Dyr. ſet & Dominus Ruſſel Paſ.* 5 *Jac.* *Houghton* 1 *Eliz.* *Batter vers Dym. Mwdant M.* 12 & 13 *Eliz.* *Campt' v. Com. Bed. ford, Mich.* 21, 22 *Eliz.* *ibidem Bar. verl, Dym. Rich. Hill.* 4. *Viſcount Mountag. Trc. H.* 3. & 4.

vidence given to a Jury, or take a Verdict without Oath, which were not excusable. And a few examples of giving in their answer without Oath, upon this reason, are of great weight against many that shewed that they were voluntary sworn; and these orders which were compulsory, are of so late time, and of so weak power, that they cannot at all take any right from the Baronage which was before settled in them.

Examined as Plaintiffs in Actions of Debt up- Arrearages of Accompts.

3 *H.* 6. *fol.* 43. & 44. BY the Statute of 5 *Henry* 4. *cap.* 8. in Actions of debt upon Arrearages of accounts, the Judges have power to examine the Attorney of the Plaintiff, or whom they please, and this examination was meant, and hath been practised upon Oath; yet in action brought by the Lady of *Abergavenny*, being a Baroness, against another in the time of *Henry* the Sixth, when the Counsel of the Defendant desired the Plaintiff might be examined, *Cockanie* the Justice said, that they should not do well to make her, being a Baroness, come to be examined. And however the Statute were general for high as well as low (as the words of the Books are) yet he saith the Law will be otherwise, and different between another common person.

Of

Of the Form that was uſed in ſwearing of Spiritual and Temporal Barons.

IN the form of ſwearing the promiſſory Oath, a difference hath been amongſt the Barons of Parliament, the Temporal Barons under *Henry* the 7. ſwear with their hand upon the Book, the Spiritual with their hand upon their Breaſt, firſt the one *tactis* the other *viſis Evangeliis*: Antiently this Oath was taken by the Lords in the houſe upon the Archbiſhops Croſs. To this day the Spiritual Lords have challenged it, and ſometimes have uſed to ſwear *viſis*, only as a thing to be done by the priviledge of the Church. But there is the Teſtimony that ſhews, that all the Biſhops in a Provincial Synod did ſwear here their *Juramentum corporale*, which is *tactis*, and howſoever if it be a priviledge of *Nobility* in ſome other *States*, or of *Gentry*, to depoſe by writing without a *corporal Oath*, as in *Bohemia*, *Auſtria*, *Bavier*, &c. yet there is no ſufficient certainty with us for an eſtabliſht difference of form in ſwearing.

Rot. Parl. 1 H. 7. part. 1 M. 14 M. 15. Parl 15 E 3. N. 43. Circa E. 2. de Templo in Anonymi Chron.

Gal. obſerv. prac. 100. fol. 22.

CHAP. II.

Tryal by Peers.

Not in Appeals. 10 *Eliz.* 4. *b. lib. in tract. tit.* Appeal *de mort.* 7. *Stamf.* &c.

IN all cases of Treason or Felony, or misprision of either of these offences, a Temporal Lord of Parliament is to be tryed only by his Peers, if arraigned by Indictment *per Judicium parium suorum*, or of 12 or more Temporal Barons of Parliament. This holds as well in all cases made Treason or Felony by Statute, as received anciently to be so by the Common Law, as Justice *Stamford* expresly affirmeth, although usually in Statutes which make Treason or Felony, a special clause be inserted for Peers to be tried by their Peers; as also to the now trial, where perhaps more need was of such a clause, upon the Statute of remainder made for trial of offences committed by the *English* in *Scotland*, it is added, that if the Offender be a Peer of the Realm, then his Trial shall be by his Peers: and this is clear for all Temporal Barons and their Ladies; but is hath been doubted whether the same Law be in case of Trial of Spiritual Barons or no; and without doubt one special Argument among others, hath been made from

1 *H.* 4. 1. *an.* 10. 4. 6. 13 *E.* 4. 12. *an. Stamf. lib.* 2 *cap.* 1. *Cooke lib.* 9. *fol.* 30. *b. Stat.* 4 *Jac. cap.* 1.

from the name of Peers, ſome concluding thus: Spiritual Barons are no Peers, therefore not to be tried by their Peers; others for the other part, thus, Spiritual Barons are Peers, therefore to be tried by their Peers; but of theſe two Arguments, the firſt is falſe in matter, the ſecond in form. *Stat.* 20 *H* 6. *cap.* 9. *Cook. lib.* 6. *fo.* 52. *b.*

For the firſt, it is true and plain, that Spiritual Lords have been Peers, and of the antecedent falſe: the Teſtimonies juſtifying them to have been ſo, are very frequent in the Biſh. of *Wincheſter*'s caſe, who departed from the *Parliament* at *Salisbury*, about the beginning of *Edward* the third, and was queſtioned for it afterwards in the Kings Bench; he pleaded to the Declaration, *Quod ipſe eſt unus è paribus Regni & Prælatus*, &c. and in that ſhort diſputation of the caſe which is left in the year Books, he is ſuppoſed clearly both by the Court and Council to be a Peer. So afterwards under the ſame King, in a Writ of *Wards* brought againſt the Biſhop of *London*, he pleaded to iſſue, and the Defendant could not have day of Grace, for he ſaid (as the words of the Book are) that a Biſhop is a Peer of the Land. *Et hæc erat cauſa*, &c. And in a like caſe upon an Action of Treſpaſs againſt the Abbot of *Abyndon* who was one of the Lords Spiritual, day of Grace was denied *Paſ.* 3 *E.* 3. *coram rege Rot.* 9 *Rep.* 3 *E.* 3. *fol.* 186. *pl.* 28. 13 *E.* 2 *tit. Enqueſt.* 43. *tit.* Challenge.

denied againſt him, becauſe he was *Peer de la terre*. So expreſly upon the Queſtion of having a Knight returned into a Jury where a Biſhop was Defendant in a *Quare impedit*, the rule of the Court was, that it ought to be ſo, becauſe the Biſhop was a Peer of the Realm. So the Judgment given againſt the Biſhop of *Norwich* in the time of *Richard* the ſecond, he is in the Roll expreſly allowed to be a Peer, for he had took exceptions that ſome things had paſſed againſt him without aſſent or knowledge of his Peers of the Realm. To which exception, the anſwer was, It behoves you not at all to touch your Prelate of only certain Miſpriſions, which you as a Souldier of the King, *&c.* have done and committed, *&c.* Here is to be avoided that challenge of *Stafford* Archbiſhop of *Canterbury* under *Edward* the Third, when upon his being excluded the Parliament, he thus challenged his place. *Ego tanquam major pars Regni poſt Regem vocem habens Jure Eccleſiæ meæ tantum vendico, & ideò ingreſſum in Parliamento peto*; the ſame is juſtified by the Clergy touching their *Jus paritatis* before recited at large and entered in the Parliament Roll. And in the Aſſignment of the Errors under *Henry* the Fifth, for the reverſal of the Attainder of the Earl of *Salisbury*, one Error is aſſigned, that Judg-

Plowden *Com.pl.* 117. *& ve. Hill.* 8 *E.* 3. *Rot.* 23. *coram Rege.*

Judgment was given without Aſſents of the Prelates, which were Peers in Parliament; and that although that were adjudged to be no Error, yet it hath been allowed clearly in the Roll, and the Petition, that they were Peers. So in an Act of Parliament under the ſame King, the Biſhops and Archbiſhops, and Archbiſhops of *Ireland* are called Peers of that Kingdom; and divers other paſſages occur touching this name of Prelate; neither could any Scruple be further made of it, until the paſſing of an Act of this Parliament, 17 *Car.* 1641.

Stat. 4 *H.* 5. *ca.* 6. 33 *H.* 8. Trial, 141.

But as this is clear, that they were Peers, ſo alſo it is clear, that they were not by the Law to be tried as Temporal Barons by their Peers; and the concluſion of the contrary drawn (as before) out of that, that they have been Peers, is wholly without conſequence, this having been a Point of the Common Law, as it is diſtinguiſhed from Acts of Parliament, which falls out generally to be only the known and received Cuſtom within the Kingdom, if the Practice and Cuſtom within the Kingdom be therein obſerved, the point of Law may be ſoon reſolved. In the Practices and Cuſtoms divers Biſhops are found to have been arraigned, and legally tried upon Capital Offences, yet

yet all that have been ſo, have had their Trial only by common Juries, and whether by Statute any alteration be of this Common Law, ſhall preſently be examined, there being many Biſhops now to be tried.

Hill. 17 E. 2. *Rot.* 87. *Dorſe coram Rege & Rot. Rom.m.* 6.

That Practice and Cuſtom appeareth in particular examples found from the time of *Edward* the Second, to the Age next before us, thus collected: *Adam*, Biſhop of *Hereford*, under *Edward* the Second, was indicted of divers Felonies, and of joyning with *Roger Mortimer*, he is arraigned in the Kings Bench; and upon queſtion how he will be tried, he ſaith, *Quòd ipſe eſt Epiſcopus Heref. ad voluntatem Dei & ſummi Pontificis, & quòd materia prædicta Articulorum ſibi impoſuit, adeò ardua eſt, quod ipſe non debet in Curia ſic ſuper prædictis ſibi impoſitis reſpondere, nec inde reſpondere poteſt abſque offenſu divino & ſanctæ Eccleſiæ.* Hereupon day is given over, and then the Indictment is brought into the Parliament, where upon his Arraignment he gives the like Anſwer; and *Walter* Archbiſhop of *Canterbury, petit eum, & ei liberatur*; and this is commanded, that he have him ready at a certain day in the Kings Bench. *Et præceptum eſt Vicecomiti Hereford. quod venire faciat coram Domino Rege tot & tales*, &c. *ad inquirend. prout*

moris

moris eſt, &c. And a common Jury is return-which finds the Biſhop guilty; where-upon he is committed to the Archbiſhop and convict, and his Lands and Goods are ſeized into the Kings hands.

Here was the Biſhop tried by a common Jury, although it appears both in the Record, and in the Hiſtory of that time, that the whole Clergy earneſtly indeavoured to have kept him from Conviction; but no pretence of any right of Trial by Peers is once mentioned in this behalf, though other Complaints are full enough expreſſed againſt the whole Proceedings. *Thomas Walſingham fol. 199. Tranſert.*

Under *Edward* the Third, *John de Iſle* Brother to *Thomas Hen* Biſhop of *Ely*, was indicted in *Huntington-ſhire*, That he, with divers others, *per aſſenſum & procurationem Epiſcop.* 28 E. 3. *die Lunæ poſt Feſtum Sancti Jacobi*, burnt the houſe of the Lady *Wake* at *Colne*, by *Sommerſham*, *& quod prædictus* Thomas *Epiſcopus ſciens prædictam combuſtionem per prædict. ſervientes ſuos eſſe factam dictos ſervientes apud Sommerſham poſtea receptavit*, &c. And alſo it was found before the Sheriff and Coroner, that 29 *Edward* the Third, the Biſhop was guilty *de Aſſenſu* of the Murther of one *William Holme*, ſlain *Trial* 30 E. Rot. 11. *Rep.*

ſlain by *Ralph Careleſs* and *Walter Ripton* called Little *Watt*, upon Malice conceived againſt *Holme*, becauſe he followed the Suit of the Lady *Wake*; the Principals were attainted by *Outlawry*, the Biſhop was arraigned, and upon queſtion how he would be tried, *dicebat quòd ille eſt membrum Dom. Papæ, & quòd ipſe ab ordinario ſuo*, viz. *venerabili Patre Domino Simono Archiepiſcopo Canterburi. Angliæ Primat. reſpondere non poteſt. Et ſuper hoc idem Archiepiſcopus præſens hic in Curia petit, quòd dictus Epiſcopus Elienſis de Feloniis prædict. ſibi impoſitis hic coram Laico Judice non cogatur reſpondere; & ut ſciatur inde rei veritas per inquiſitionem patriæ*, &c. *præcept. eſt Vicecomiti* Huntingdon, *quòd venire faciat coram Domino Rege in Octab. Sancti Mich.* &c. *ubicunque*, &c. 24. *de Juſt. de Sommerſham, & idem dies datus eſt Epiſc.* &c. *Ad quem diem coram Domino Rege venit prædict. Epiſc. in propria perſona, & ſimiliter jurat. veniunt qui electi, trieati, jurati & onerati, ſi idem Epiſc. de aſſenſu prædictorum* Rand. & Walter. *& de recept. eorundem ſit culpabilis, nec non dicunt ſuper Sacramentum ſuum quòd idem Epiſc. eſt in nullo culpabilis, ſed dicunt quod idem Epiſc. poſt Feloniam receptavit ipſos apud Sommerſham, ſciens ipſos Feloniam feciſſe. Ideò inquiratur de bonis, catallis, terris & tenementis*, &c.

&c. *Et ſuper hoc prædictus Archiepiſc. præſens in Curia petit ipſum tanquam membrum Eccleſiæ ſibi liberari, & ei liberatur cuſtodiend. prout decet*; and Writs were ſent out to the Sheriffs of all Shires where he had Goods or Lands, to certifie them for the King's Benefit; and in this Record it is obſervable, that the *Jurors* were tried, which proves that the Biſhop had his Challenges to them at his Trial.

About the beginning of *Henry* the Fourth, *Thomas Merke* Biſhop of *Carliſle*, was indicted of Treaſon before *Thomas* Earl of *Warwick*, and other Juſtices of *Oyer* and *Terminer* in *Middleſex*; the Biſhop ſtanding before committed to the Tower for the ſame Offence. *Et hoc Juſticiar. prædict. recognit. mandatum eſt Conſtabulario Turris prædict. vel ejus locum tenenti, quod corpus ejuſdem Epiſc. habeant, vel alter eorum habeat coram præfatis Juſticiariis apud Turrim prædictam die Mercurii ex tunc proximo ſequente ad reſpondendum Domino Regi de proditionibus*, &c. And the Precept *eſt Vicecomiti* London. *quod tunc venire faciat coram præfat. Juſticiar. apud Turrim prædict. tam* Aldermannos *& Cives, quam alios probos homines de vicineto Warder. prædict.* 1. Baynards Caſtle *&* Dougate *qui præfat Epiſc. nulla affinitate attingunt ad faciendam tunc ibidem deliberationem de dicto*

Epiſcopo.

Epiſcopo, prout moris eſt ſecundum legem Regni Angliæ, ad quem diem & locum; the Biſhop is brought before them, and a Writ comes from the King to the ſaid Juſtices, reciting, that *licet in Statuto apud Weſtminſterium nuper edito, inter cætera continetur, quòd nullus Archiepiſcopus, nec Epiſcopus coram Juſticiar. noſtris occaſione alicujus criminis impetratur abſque ſpeciali præcepto noſtro quouſque aliud remedium inde foret ordinatum de adviſamento tamen Conſilii noſtri vobis mandamus quòd ſi alicui Archiepiſcopi, vel Epiſcop. coram vobis impetiti vel judicati exiſtunt, tunc ad deliberationem ipſorum procedatis prout de jure & ſecundum legem Regni noſtri Angliæ fore videritis faciendum, Statuto prædicto non obſtante. Teſte meipſo apud Weſtminſterium 28 die Januar. Anno Regni noſtri primo.*

This Writ being read in the Court, the Biſhop was demanded how he would be tried: He firſt ſtands upon the Priviledge of the Church; to whom the Juſtices reply, That the Offence was ſo high, that he muſt anſwer them with Proteſtation of ſaving the Liberties of the Church; he pleads Not guilty. *Et inde de bono & malo ponit ſe ſuper patriam, inde fiat, inde jurat, hoc inſtante die*, &c. The Jury finds him guilty, but the Juſtices being not adviſed

viſed of their Judgment, return him to Priſon: The Record was afterward removed in the Kings Bench, and the Biſhop renders himſelf to the Priſon of the Marſhalſea; and then being asked, if he had any thing to ſhew why Judgment ſhould not be given on him, he pleads his pardon, and it is allowed him.

To theſe Preſidents a learned Judge in Queen *Mary*'s time ſaith, divers were agreeable; among which are ſpecially to be accounted thoſe of the Biſhop of *Rocheſter* in the time of *Henry* the Eight, and of *Cranmer* Archbiſhop of *Canterbury* under Queen *Mary*, both tried by common Juries. Neither is there any example extant from the firſt memory of a legal Trial of Biſhops, which is under *Edward* the Second, that teſtifieth any Trial by Peers belonging to a Biſhop; and accordingly hitherto it was taken clearly by that learned Judge of Queen *Mary*'s time, that no ancient Statute ſpeaking of Trial by Peers, hath been put in ure to extend to a Biſhop or Abbot, although they enjoy the name of Lords of the Parliament; for they have (as the words are) this name of Biſhop or Abbot *ratione Officii*, being not choſen in Parliament in reſpect of their Nobility, but in reſpect of their Poſſeſſions, the ancient Baronies annexed to their Dignities,

Stamf. lib. 3. fol. 133.

Tempore H. 8. pro Trial 142.

Stamf. lib. 3. pag. 135.

according to which there are divers Presidents, whereof one was in the time of *H.* the 8. where also it is as judiciously and modestly affirmed by a most learned Man of this Kingdom, That the Spiritual Lords enjoy all legal Priviledges, as the Temporal Barons do, saving only this Trial by Peers.

Cambd. in Ordi. Angl.

That which may be here objected out of the Statute of the Grand Charter, wherein every man ought to be tried by his Peers, *id est*, *judicium parium suorum*; or out of the Statute of 25 *E.* 3. by which all Treasons are to be tried by men of the same Condition of which the Offender is, may easily be answered; for both these ancient Statutes are now to be interpreted, as it is clearly taken in continual Practice, and in the Books, according to the known use of the legal Proceedings, and not by literal Interpretation of the words, as it is plainly seen in both of them: For all Gentlemen, Esquires, Knights, Batchellors, and Bannerets, and at this day Bannerets are accounted Peers, not only amongst themselves, but also to all other men of the lowest condition, which yet cannot be out of the force of the word, only the like appeareth in that *non amercientur Comites vel Barones, nisi per pares suos.* And it is shewed in the Title of Amerciaments, wherein

1 *Mar. Dyer fo.* 986. *Hollenshead Cron. fo.* 1749. *Surpleis. case. Coo. fo.* 40. 3.

wherein that which the Statute refers to Peers, is done ſo by Judges. And this of Biſhops referreth to thoſe Statutes, is only to be adjudged according to Uſe and Practice, which is the beſt Interpreter of the Statutes, and not by the meer Interpretation of the word Peers.

And it is moſt likely, that if any ſuch Right had anciently belonged to them, not only they themſelves, but the Temporal Baronage under *H.* 6. proteſteth by the mouth of Viſcount *Beaumont* for their Trial by Peers, when *William de la Poole* put himſelf upon the King, and not on his Peers, in ſuch ſort as thoſe Biſhops put themſelves on the Pope, and not upon any legal Trial. *Parl.* 28 *H.* 6.

But one particular caſe is here to be added, touching this right, ſingled by it ſelf, that is, Trial by Peers upon the third Offence againſt the Statute of Service and Sacraments, under Queen *Elizabeth*, for the known Trial by Peers, is in Caſes of Treaſons or Miſpriſions, or one of them. And Trial by Peers ſaved to the Baronage in the Statute of new Treaſon or Felony, hath reference only to the known uſe of ſuch Trial; ſo that in thoſe new Treaſons or Felonies, ſuch as for other Offences, which were before Treaſon or Felony, were to be tried by their Peers, are like- *Stat.* 1 *Eliz. c.* 1.

wise (and none else) to be tried by their Peers for new Treasons or Felonies, and therein the Spiritual Lords are equally excluded; but this of the third Offence against that Statute, is neither Treason, Felony, nor Misprision, but a Trespass, punished only by Forfeiture of Goods and perpetual Imprisonment. In which case this Act saith, without reference to the use of Trial by Peers, as it is usually expressed in other Statutes, that all and singular Lords of the Parliament for the third offence shall be tried by their Peers.

CHAP. III.

Scandala Magnatum.

IF any person shall divulge false Tales of any of the Lords of Parliament, by which dissention may be betwixt the Commons and them, the Offender is to be imprisoned until he bring forth the Author; but this also is communicated to the greater Officers of the Kingdom.

CHAP.

CHAP. IV.

Proceſs againſt them in Engliſh Courts, by Bill and Anſwer.

THe Courſe of the Chancery is, and of the late *Starchamber* was, That the Chancellor writes to the Lords of Parliament, and ſends out *Subpœna's*, and uſually his Letters are prayed in the Bills that are exhibited againſt them.

But whether upon a Baron's not appearing on a *Subpœna*, an Attachment may be awarded, hath been a queſtion; neither do I find it clearly reſolved otherwiſe than that in later times, the Practice is, that it may: But in the time of Queen *Elizabeth*, in a Suit between *Tavernor* and the Lord *Cromwel*, the Defendant diſobeying an Injunction in the Chancery, it was queſtioned what courſe ſhould be taken againſt him; and upon good and deliberate advice taken by the Court, having the opinion of ſome of the Judges herein, an Attachment was awarded to the Sheriff of *Norfolk*, and returned ſo, and the Sheriff had his Coſts for bringing him. This Attachment was awarded in *Michaelmas* Term, and in *Hillary* Term he was returned ſo; but

Laurence Jennins li. 2. a. Crompt. Juriſd. f. 33.

but afterwards there being a Parliament began in *May*, and ended in *June*; the Lord Chancellor complained of it, and it was pretended that it was gotten in Court in the abſence of the Lord Chancellor, and advice was had with Councell, and Judges, and it appears not (as the words of the Journal book are) that by the Common Law, or by any preſidents of the ſaid Court of Chancery, it was warranted that the perſon of any Lord having place and voice in Parliament (in the like caſe) in the ſaid Court of Chancery before this time had been attached, and therefore they took it to be againſt the Priviledges of the Lords of this Kingdom, and he was diſcharged.

Dyer, Parl. Jun. 19. Eli. & Dyer fo. 314. & 315.

Rot. Parl. 2 H. 5. parl. 1. M. 2. N. 46. Rot. Parl. 15. H. 6. N. 25. & Parl. 2 H. 2. art. 69.

But for that of attachment upon *Subpœnas*, and in the courſe of proceeding againſt noble men by ſuch Writs or Bills as are uſed in the Exchequer, Chancery or elſewhere, it is not likely that any certain, Courſe of ancient Common Law, or proceeding in equity can be found to juſtifie it at all, either againſt them or any other perſons, beyond the time of *R.* 2. under whom *John Waltham*, Biſhop of *Salisbury*, and Chancellor of *England*, brought in the Writs of *Subpœna*, *& cæteris de cauſis*, in the Chancery and the Exchequer, by example whereof other Courts have uſed them,

them, againſt which the Commons paſſed a Bill in Parliament under *Henry* the fifth, but the King would not give aſſent to it. The like is found under *Henry* the ſixth, and *Henry* the fourth.

CHAP. V.

Their number of Chaplains qualified.

BY the Satute of Pluralities, every Archbiſſiop may have eight Chaplains, that may take Diſpenſations for a Plurality; but for the plenty of Schollers of good ability in Arts and Learning, it is like the Law in theſe points will be altered, that they all have and none want convenient benefice.

Every { *Marquiſs and Earl*, *Viſcount*, *Biſhop*, *Temporal Baron*, } *may have* { 5, 4, 6, 3 } *Chaplaines.*

Every { *Dutcheſs*, *Marchioneſs*, *Counteſs*, *Baroneſs*, } *being Widdows* { *two.*

CHAP. VI.

Their retaining of Strangers.

A Baron of the Parliament may keep ſix ſtrangers born out of the Kings obeyſance at one time; whereas another man may retain not above four.

CHAP. VII.

Clergy.

UNder *Edw.* the ſixth, a priviledge was given to the Nobility, that in all caſes where a common perſon, as a Clerk convict, ſhall and may have benefit of his Clergy; and in all caſes where priviledge of Clergy is reſtrained, or taken away by that Statute, except in willful murder, that is, Burglary, Robbery, by or near the Highway, ſtealing of Horſes, and Sacriledge, a Lord of the Parliament and Peer of the Realm ſhould at the firſt offence, only of common grace, without prayer, have benefit of the Clergy, and ſtand as a Clerk convict to make purgation, although he cannot read.

But

But as *Stamford* notes, in all other caſes, in which Clergy is taken away ſince that Act, a Baron of the Parlianent is in the ſame caſe as any other common perſon is; And by Acts made ſince, it was taken away generally. *Parl. Cor. lib. 2. fo. 130 a.*

1. For ſtealing of Horſes, 1 *E.* 6. *cap.* 33.

2. Robbing in dwelling houſes, &c. in or near the High-way, 5 *E.* 6. *c.* 9.

3. Burning of Houſes or Barns, pety treaſon, 5 *Phil* & *Mar. c.* 4.

4. Stealing of 5 s. in any dwelling houſe or any place adjoyning, 39 *Eliz. cap.* 15.

5. Stealing of 12 d. or more without the knowledge of the perſon, &c. 8 *Eliz. cap.* 4.

6. Burglary and Rape, 16 *Eliz. c.* 7.

7. Killing one that hath no weapon drawn, 1 *Jac. cap.* 9.

CHAP. VIII.

Their Liberty of hunting in the Kings Foreſts.

QUicunq; Archiepiſcopus Comes vel Baro veniens ad nos, per mandatum noſtrum tranſiret per foreſtam noſtram liceat ei capere unam

unam bestiam vel duas, per visum Forestarii si præsens fuerit, sin autem faciat cornare, ne videatur hoc furtim facere, hoc liceat eis redeundo facere sicut prædict. est: and this hath been interpreted to the coming of a Lord by summons to the Parl. by Process out of the Chancery, Kings bench, or otherwise, where the return is *Coram Rege.*

CHAP. IX.

Amerciaments.

IN case of Amerciaments of Barons of Parliament upon Nonsuits, or other Judgments, ending in *misericordia*, there is a special course, both for the sum and the way of ascertaining of it, which differs from the Amerciaments of common persons.

38 E. 3. fol. 39. a. 24 E. 2. f. 31 b. 1 H. 6. 7. a. 9 H. 6. f. 2. b. 19 E. 4 f. 9. a. 21 E. 4. f. 77. b.

For the sum, the Amerciaments of an Earl, or Spiritual, or Temporal Baron is equal, that is, 5 *l.* of a Duke, 10 *l.* and the setting of this is by the Kings Justices, before whom the action dependeth; the Justices in this place supplying the room of Peers, by which according to the grand Charter they are to be amercied, as expressly it is affirmed in the Judgment under *H.* 6. against the Earl of *Northumberland*, where the words of the Justices are, Insomuch

much as an Earl is a Peer of the Realm, he shall be amerced by his Peeres, according to the Statute, and therefore we put not the Amerciament incertain. 1 *H.* 6. *f.* 7. b. *Cook l.* 8. *f.* 4. *Greffey's* Case.

And thence and thus is the grand Charter to be understood that saith, *Comitas & Barones non amercientur, nisi per Pares suos*, but continual usage hath thus (as before is shewed) interpreted that priviledg, and so hath the practise been, and thence was it under *E.* 2. a Writ was directed to the Justices of the Commonpleas that they should not amerce the Abbot of *Crowland. tanquam Baro*, because he did not hold *per Baroniam aut partem Baroniæ.* *C.* 4. *li.* 3. *De Cor. c.* 1. *fol.* 116. b. *Clauf.* 15. *E.* 2. *n.* 12.

For this of Amerciament, while there were no other Titles of greater Nobility but Earl and Baron, which was in the time of *E.* 3. who created the first Duke in *England*, as *Rich.* the 2. the first Marquis; and *H.* 6. the first Viscount, and the Amerciaments of the Lords of the Parl. were all at 5 *l.* whence also is generally so affirmed in the Statutes of *Ireland* under *H.* the sixth, that every Lord that is called L. of Parl. in all places as well personal as real, in which amerciaments do lye, shall be amerced at 100 *s.* But when other Dignities were made, and it seems according to the proportion of the reliefs, paid by those new dignities, for a Duke is to be amercied at double

double the ſum of an Earl, that is, 10 *l.* as his relief is double, which is 20.

CHAP. X.

No Proceſs in civil actions to be awarded againſt the body of a Baron.

11 *H.* 14. 2. *Cooke lib.* 6. *fol.* 52. b. 27 *H.* 8 *f.* 7. *a.* 14. 2. 22. b. 29. *Aſs. Pl.* 33. 14 *Eliz. Dyer. fol.* 315. *Trin.* 1 *Hen.* 4. *Rot.* 8. *Coram Rege Cromw. libr. Introt. & tit. Error. utlary* 20. 13 *R.* 2. *tit. retorn del. vic.* 74. 10 *H.* 4. *tit. proceſſ.* 44. 198. 1 *H* 5. *fol* 22. b. *v. Aſſ.* 21 *E.* 3. *fol.* 59. b.

NO Baron of the Parliament or Baroneſs is to be arreſted by *Capias* upon action of debt, account, treſpaſs, or the like, but they are to be diſtrained only and pay iſſues, returned for an appearance. The reaſon of this was anciently, becauſe the *Capias* in ſuch Caſes, goes out only upon *nihil habet*, returned by the Sheriff, which could not be for a Baron, who was ever to be ſuppoſed to be ſeiſed of his Barony, by which he might be diſtrained and loſe iſſues. Although the reaſon fails now in thoſe that have not more than the names alone of their Baronies, yet the ſame Law ſtill remains, but this limited to actions between party and party; for in Caſes of reſcues, felonies, or the like, where the offence is immedaitely to the King, a *Capias* lies againſt a Baron of the Parl.

And it is as other priviledges which are legal in *England*, limited alſo to the Barons of the *Parl.* of *England*; for it appears under

der *R.* 2. that in an action of debt, a *Capias* was awarded againſt the Counteſs of *Ormond*, being one *Iriſh* Baroneſs, and participating of her husbands dignities as our Ladies in *Eng.* neither can a Baron of *Ireland* be tried here by the Peeers of *Eng.* for they are not his Peers, no more than the L. *Zanchar* might, being a Baron of *Scotland*, who was indicted and arraigned only by the name of *Rob. Creighton* Eſquire, and upon this reaſon, that he was no Baron of *Parl.* tried by a common Juury. Thence it is alſo that an Earl, Baron, or Duke of *France* coming into *Engl.* by the Kings ſafe conduct, ſhall not in any legal proceedings be ſtiled ſo, as appears in the time of *Edw.* the 1. in the caſe of the E. of *Richmond*, being then Duke of *Brittain*, and in the caſe of Sir *John Douglaſſe* under *Edw.* 3 the 4. And the reaſon, why S. *Gilbert Humfravil*, in the time of *Edw.* the 3. was legally to have his title in writs of Earl of *Anguiſh*, was becauſe that in that age the E. of *Anguiſh* by that name was L. of the *Parl.* as it is expreſly noted in our Year-books.

9 *Eli. f.* 35. b. & *Clauſ.* 39 *E.* 3. *m.* 2.

And this difference it ſeems hath been here between Temporal dignities, and Spiritual, that in regard the temporal State of *England* was ever held as ſevered and diſtant from other States, not at all communicating with them in civil government.

vernment. Therefore foreign Dignities which are of the Civil part of States, had no respect given them, as appears in the examples already brought.

But on the other side, in Dignities Spiritual, because there was anciently through Christendom supposed an unity in the Church; so that *England* with foreign Nations, and they with *England* (as members of one body had a mutual reference to each others Countrey) was legally valued, as Bishops in *England*, as may be seen in that case of the Bishop of *Utretcht* (for this is the right Name, though it be printed *Vrston*) under *E.* the 3. where being made Bishop of *Utretcht* makes a Prebend of *England*. So the Title of Cardinal was usually given in legal proceedings to such as had that dignity in *England*, whence also the Archbishop of *Ragusa* being Parson of a Benefice in the Bishoprick of *Carlisle*, under King *John*, was (it seems) to have been accounted here also an Archbishop for dignity, though not for Jurisdiction.

19. E. 3. tit. Trial 57.

Extra. tit. de renuntia. cap. 9. ad Supplicationem.

CHAP.

CHAP. XI.

A Knight to be returned upon every Pannel where a Baron is Party.

IN every Jury impannelled between any Baron of *Parliament* and other person whatsoever, one Knight at the least is to be returned, which failing, the array may be quashed by challenge; a testimony hereof as well for Spiritual as Temporal Barons, is frequent.

13 *E.* 3. *tit. Challeng.* 115. *& tit. Enquest.* 43. *Ploud. Com. f.* 117. *&* 1 *&* 2 *Phil. &* *Mar. Dyer f.* 107. 63. *&* 4 *El. idem f.* 208. b. 27 *H.* 8. 22. b.

CHAP. XII.

No day of Grace against a Baron.

IF a Baron of the Parliament be Plaintiff or Defendant in any Action, and the Plaintiff or Defendant pray a day of Grace, he shall not have it against him; and this is expresly affirmed in the Books.

22 *E.* 3. *f.* 9. a. 27 *E.* 3. *f.* 88. b. 27 *H.* 8. *f.* 22. b.

CHAP.

CHAP. XIII.

Making Deputies of Places of Truſt committed to them.

Te. Ja. f. 40. Cook. part 9.

OF late years it was agreed in the caſe of *Gilbert* Earl of *Shrewsbury*, that whereas the Office of Stewardſhip was granted to the Earl of *Rutland*, without giving power to make a Deputy (and this by Q. *Elizabeth*) that yet he might exerciſe the ſame Office by Deputy, by reaſon of the neceſſity that is ſuppoſed in the Law to be, of the Earls attendance upon the King, and the Government of the Kingdom; the ſame reaſon is, it ſeems, for all Barons.

FINIS.